


No. 35055-6-II

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THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

IN RE THE PERSONAL RESTRAINT PETITION OF:

JUSTIN MICHAEL SHEA

THURSTON COUNTY SUPERIOR COURT
The Honorable Christine A. Pomeroy, Judge
Cause No. 00-1-00109-0

BRIEF OF RESPONDENT

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**IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II**

IN RE THE PERSONAL)	NO. 35055-6-II
RESTRAINT PETITION OF)	RESPONSE TO PERSONAL
JUSTIN MICHAEL SHEA)	RESTRAINT PETITION

Comes now Edward G. Holm, Prosecuting Attorney in and for
Thurston County, State of Washington, by and through Mark Thompson,
Senior Deputy Prosecuting Attorney, and files its response to petitioner's
personal restraint petition pursuant to RAP 16.9.

I. SUMMARY OF RESPONSE

Respondent has determined that the relief petitioned for is
inappropriate.

II. AUTHORITY FOR PETITIONER'S RESTRAINT

Petitioner is currently in the custody of the Washington
Department of Corrections pursuant to sentence of 168 months – including
a 60-month firearm enhancement – for Count III, Robbery in the Second
Degree While Armed with a Deadly Weapon (Firearm), RCW
9A.56.200(1), RCW 9.94A.125, and RCW 9.94A.310; and concurrent
sentences of 102 months for Count I, Burglary in the First Degree, RCW
9A.52.020(1); 70 months for Count II, Assault In the Second Degree,

RCW 9A.36.021(1)(d); 82 months for Count IV, Kidnapping in the Second Degree, RCW 9A.40.030(1); and 12 months for Count V, Malicious Mischief in the Second Degree, RCW 9A.48.080(1)(a), respectively, as imposed in Thurston County Superior Court Cause No. 00-1-00109-0 on March 21, 2000, based upon the defendant's pleas of guilty to these amended charges on the same date. See Appendix E, Judgment and Sentence.

III. STATEMENT OF PROCEEDINGS

(The following recitation of events which were the basis for the defendant's convictions is based upon police reports and witness statements attached as Appendix G.)

On November 16, 1999, victim Louis Rowan was closing the Blockbuster Video Store around midnight. As she was pulling the front mat into the store she heard the sound of the back doors opening. She thought it was another employee until she looked up and saw a man with a gun. She dropped to the floor, and yelled at a second employee, Stephanie McElhiney, to get down. The gunman began to yell at Rowan and demand that she give him the video tape. Rowan was lying on the floor and the gunman demanded that she get up and grabbed her by the back of her pants, pulled her to her feet and shoved the gun in the small of her back.

Rowan took him to the surveillance equipment for the store and he tried to open it, but needed a key. After he could not open it he kicked her, called her a bitch and demanded the key. Rowan told him that the key was in a time delay safe. He told her to open it, put the gun to her head and told her if she put in a code that summoned the police then she was dead. At that moment he chambered a round, and then hit her in the back. While they waited he demanded to know her name and Rowan did not respond. The gunman put the gun under her chin and asked her again. She answered. While they were waiting for the safe to open, the gunman made Rowan empty the tills. After they emptied the tills they returned to the safe. He returned with her and made her empty the safe. He took the key to the surveillance equipment and took the videotape.

McElhiney later told police that she saw a bunch of people running into the store from the back door, heard Rowan yell and dropped to the ground. She said a black male walked over to her, placed a gun in her face and told her not to move or she would be seriously fucked up. She was then left on the ground while they ran around the store. Eventually, a different male, white, took her to the men's room and stood watch over her. The others were taking video games and Sony Playstations while they waited for the safe to open. The one watching McElhiney assured her that

she and Rowan would not be hurt if they did not do anything stupid like call the police. McElhiney said after the suspects got the money and games they put Rowan in the bathroom with her and told them both not to move for five minutes, threatened to kill them if they did move, turned off the lights and fled. The victims then heard the suspects banging on the back door and, believing the suspects were outside, Rowen left the bathroom for a moment to check and returned. Rowen then left the bathroom again and found that all the phone lines had been cut. She retrieved her cell phone and returned to the bathroom, at which time she called police.

The police arrived, but gained very little physical evidence. The following day, the police received a Crime Stoppers tip naming Dominic Lapraim and Kahlil Edwards and included information on the cut phone lines and missing surveillance tape. Later that same day they received a second tip naming Lapraim and Edwards again.

On December 4, 1999, another tip named Jason Goudy. Then, on December 8, 1999, a confidential informant named Edwards, Lapraim, Goudy, and Justin Shea as being involved and named Edwards' girlfriend Cassandra Bobier as leaving information on the crime. Bobier was contacted and detailed her involvement and gave, in detail, the

involvement of the others. She also told the police she was present at the time of the robbery was planned and that Justin Shea had been an employee at Blockbuster Video, but was fired. Shea knew the security system and planned the robbery with the others. Bobier said that Edwards made her get involved in the cover-up by threatening to kill her parents and to kill her. Bobier also said Edwards was the only one with a gun.

The police interviewed others connected to the defendants who corroborated Bobier's account and gave additional information about the crime. As the defendants were individually arrested, further information was obtained about each defendant's respective role in the robbery and the disposal of evidence.

On January 25, 2000, an Information was filed in Thurston County Superior Court charging the Petitioner with the following charges and weapon enhancement allegations:

- Count I – Burglary in the First Degree While Armed with a Deadly Weapon – Firearm, RCW 9A.52.020(1), RCW 9.94A.125, and RCW 9.94A.310;
- Count II – Assault In the Second Degree While Armed with a Deadly Weapon – Firearm, RCW 9A.36.021(1)(c), RCW 9.94A.125, and RCW 9.94A.310;
- Count III – Assault In the Second Degree While Armed with a Deadly Weapon – Firearm, RCW 9A.36.021(1)(c), RCW 9.94A.125, and RCW 9.94A.310;
- Count IV – Robbery in the First Degree While Armed with a Deadly Weapon – Firearm, RCW 9A.56.200(1), RCW 9.94A.125, and

RCW 9.94A.310;

- Count V – Kidnapping in the First Degree While Armed with a Deadly Weapon, RCW 9A.40.020(1)(b), RCW 9.94A.125, and RCW 9.94A.310;

- Count VI – Kidnapping in the First Degree While Armed with a Deadly Weapon – Firearm, RCW 9A.40.020(1)(b), RCW 9.94A.125, and RCW 9.94A.310;

- Count VII – Intimidating a Witness While Armed with a Deadly Weapon – Firearm, RCW 9A.72.110(1), RCW 9.94A.125, and RCW 9.94A.310; and

- Count VIII – Malicious Mischief in the Second Degree While Armed with a Deadly Weapon – Firearm, RCW 9A.48.080(1)(a), RCW 9.94A.125, and RCW 9.94A.310.

See Appendix A.

On March 21, 2000, a First Amended Information was filed, reducing the total number of charges to five; dropping the firearm weapon enhancements on all but one charge; dropping one of the two second-degree-assault charges; dropping one of the two kidnapping charges; reducing the remaining kidnapping charge to second-degree from first-degree kidnapping; and dropping the witness intimidation charge. See Appendix B. The Petitioner entered pleas of guilty to all five charges set forth in the First Amended Information. See Appendix C, Statement of Defendant on Plea of Guilty. In exchange for this substantial reduction in charges and potential sentence ranges and firearm enhancements, the Petitioner entered into a plea agreement, which was filed with the superior court on March 21, 2006, at the time of the Petitioner's pleas of guilty.

See Appendix D. This plea agreement was specifically incorporated into the Petitioner's change-of-plea statement.¹ In his plea agreement, Petitioner agreed to cooperate (providing truthful information and testimony if needed) with the prosecution in the cases against the Petitioner's co-defendants, and to an exceptional sentence as to a five-year period of community custody following his commitment. In this plea agreement, the Petitioner agreed to "do nothing to undermine, and shall join the State in its sentencing recommendation...[of] a 168 month sentence,"² and that he "irrevocably, knowingly, intelligently and voluntarily waives any and all objections to withdrawal of his guilty plea pursuant to this agreement."³ Pursuant to his plea of guilty, the Petitioner waived his right to appeal the determinations of guilt,⁴ acknowledged that he had received a copy of the First Amended Information,⁵ and that he was entering his guilty pleas "freely and voluntarily."⁶ As charged in the First Amended Information, each violent offense (Count I – Burglary in the

¹ See, Appendix C, Statement of Defendant on Plea of Guilty, page 2, Section 6(f).

² Appendix D, "Plea Agreement," page 1, conditions 1 and 2.

³ Appendix D, "Plea Agreement," page 2, condition 4.

⁴ See, Appendix C, Statement of Defendant on Plea of Guilty, page 1, Section 5(f).

⁵ See, Appendix C, Statement of Defendant on Plea of Guilty, page 3, Section 7.

⁶ See, Appendix C, Statement of Defendant on Plea of Guilty, page 3, Section 8.

First Degree; Count II – Assault in the Second Degree; Count III – Robbery in the Second Degree; and Count IV – Kidnapping in the Second Degree) would scored as “two points” towards the offender score for those offenses,⁷ combined with the other current offense of Count V – Malicious Mischief in the Second Degree and the Petitioner’s prior conviction for Theft in the First Degree.⁸ As charged in the First Amended Information and scored pursuant to RCW 9.94A.360(8), this resulted in an offender score of “8” (eight points) for the highest-ranked offense, Robbery in the First Degree, resulting in a sentence range of 108 – 144 months,⁹ *before* factoring in the 60-month sentence enhancement and making the total sentence range for this offense 168 – 204 months.¹⁰ As noted, the State recommended and the Petitioner agreed to a 168-month sentence pursuant to the plea agreement, which the sentencing judge ordered for this charge (Count III – Robbery in the First Degree While Armed with a Deadly

⁷ See, Appendix F, Offender Score Sheets filed March 21, 2000. See, also, former RCW 9.94A.360(8), subsequently recodified as RCW 9.94A.525(8) pursuant to Laws of Washington 2001, Chapter 10, § 6.

⁸ See, Appendix E: “Criminal History” listed under Section 2.2 of the Judgment and Sentence.

⁹ See, Appendix F, Offender Score Sheets filed March 21, 2000, page “III-159” (lower right corner) for “Robbery First Degree”.

¹⁰ See, Appendix F, Offender Score Sheets filed March 21, 2000, page “III-18” (lower left corner) for “General Deadly Weapon Enhancement – Form A”.

Weapon – Firearm), which was the “low end” of this sentence range. The Petitioner also stipulated, for purposes of an exceptional sentence, that “there are substantial and compelling reasons justifying an exceptional sentence allowing for a five year period of community custody,” and that “[b]ut for the plea agreement in this case, defendant would be facing greater charges and lengthier sentences.”¹¹ The Petitioner was advised of his rights concerning any collateral attack on this judgment in the judgment and sentence.¹²

No appeal was filed following sentencing. This is the first collateral attack and appellate review in this matter, filed over six years after the judgment was final.

IV. RESPONSE TO ISSUES RAISED

4.1. Pursuant to His Guilty Pleas and Plea Agreement, The Petitioner is Barred From Appealing This Matter.

Shea chose to plead guilty to an agreed number of specific charges

¹¹ See, Appendix E (last page), “Findings of Fact and Conclusions of Law re: Exceptional Sentence – Appendix 2.4 to Judgment and Sentence.

¹² See, Appendix E, the Judgment and Sentence, Section 5.1, which reads:

COLLATERAL ATTACK ON JUDGMENT: Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided in RCW 10.73.100. RCW 10.73.090.

in order to take advantage of a plea agreement which spared him from going to trial on a number of greater charges, all of which carried additional deadly weapon (firearm) enhancements. He has not claimed any breach of the plea agreement or bad faith by the State. Therefore, the Petitioner has waived the ability to seek appellate review of the issues he has now raised. Young v. Konz, 88 Wn.2d 276, 283, 558 P.2d 791 (1977).

Here, the Petitioner is essentially attempting to maintain his pleas to Counts I, III, and V (Burglary in the First Degree, Robbery in the First Degree, and Malicious Mischief in the Second Degree) while attempting to have this court vacate his convictions for Counts II (Assault in the Second Degree) and IV (Kidnapping in the Second Degree) and, presumably, resulting in his sentence being shortened.¹³ This situation is similar to the defendant's situation in a recently-decided case, State v. Ermels, 156 Wn.2d 528; 131 P.3d 299 (2006).

In Ermels, the defendant entered a guilty plea to manslaughter in the second degree. As part of the agreement, the defendant stipulated to facts supporting an exceptional sentence based on victim vulnerability, and he stipulated that there was a legal basis for an exceptional sentence.

¹³ Although the specific result of the relief sought by the Petitioner is never actually stated.

Ermels, 156 Wn.2d at 532-34. He also waived the right to appeal the basis for and propriety of the sentence. Id., at 535. The defendant later sought review, and the court of appeals affirmed. State v. Ermels, 125 Wn. App. 195, 199, 104 P.3d 67 (2005). On appeal, the supreme court determined that the subsequent United States Supreme Court decision in Blakely v. Washington, 542 U.S. 296, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004), did not affect his exceptional sentence. Ermels, at 540. Therefore, the supreme court found that Ermel's case only presented an issue as to whether the plea was knowing, intelligent, and voluntary. Id., at 540-41. Because the portions of the plea agreement stipulating to the facts supporting the exceptional sentence and the legal basis for the exceptional sentence were indivisible from the rest of defendant's plea agreement, the court held that Ermels was unable to challenge the exceptional sentence without challenging the entire plea. Id., at 541.

Ermels' limited request for remedy is fatal because it does not appear that he can challenge the validity of his exceptional sentence without challenging the validity of the entire plea. We have recognized that plea agreements often involve one bargain or a "package deal." State v. Turley, 149 Wn.2d 395, 400, 69 P.3d 338 (2003); see also State v. Bisson, 156 Wn.2d 507, 130 P.3d 820 (2006). Even where the plea agreement involves multiple counts or charges, the agreement is indivisible where the charges were made at the same time, described in one document, and accepted in a

single proceeding. Turley, 149 Wn.2d at 400. Here, Ermels pleaded guilty to a single charge and agreed that there were both factual and legal bases for an exceptional sentence on that charge. CP at 31-32. He did so in exchange for the State's agreement not to file a more serious charge with a significantly longer standard range. In fact, Ermels' exceptional sentence fell below the low end standard range for the original crime charged. Compare RCW 9.94A.510; .515 (93 to 123 months) with CP at 62 (90 months). Ermels does not offer objective manifestation of any intent to treat the exceptional sentence as a divisible portion of the plea agreement. Turley, 149 Wn.2d at 400. His plea agreement is indivisible under Turley, and Ermels cannot claim that his stipulation to the factual and legal validity of an exceptional sentence is separable from the rest of his plea agreement. Ermels cannot challenge his stipulations without challenging the entire agreement.

Id., at 540-41 (footnotes omitted). For similar reasons, the court also held that Ermels was unable to challenge the validity of his appeal waiver without challenging his entire plea. Id., at 542.

As noted, *supra*, Shea was originally facing both a greater number of charges and several of higher “degree” than those charges to which he entered pleas of guilty on March 21, 2000. As can be the facts of this case, a trier of fact hearing such evidence could have easily found Shea and any other co-defendant guilty of burglary in the first degree for the armed burglary of Blockbuster Video, and of guilty of two counts of kidnapping in the first degree for the armed abductions of Louise Rowan and Stephanie McElhiney pursuant to the commission of the burglary/robbery

of Blockbuster Video. As shown in Appendix H to this brief, if convicted simply of those three charges – without considering other potential charges and deadly weapon enhancements that Shea might have faced had he proceeded to trial – Shea would have faced a sentence range (including firearm enhancements) of 308 to 350 months, of which 180 months would be “hard-time” (i.e., no good time) pursuant to three separate five-year weapon enhancements.¹⁴

Therefore, Shea’s plea agreement – like the defendant in Ermels - involved multiple counts or charges, involved charges made at the same time, described in one document, and accepted in a single proceeding. Shea agreed in the plea agreement to plead guilty to all charges contained in the First Amended Information, did in fact plead guilty to all of these charges, and agreed that there were both factual and legal bases for these charges, acknowledging in the exceptional sentence agreement that he otherwise would have been “facing greater charges and lengthier

¹⁴ Because both kidnapping first degree charges involved “serious violent offenses” and would have involved different victims, they are “distinct and separate” conduct from each other and would necessarily be served consecutively to each other pursuant to former RCW 9.94A.400(1)(b) now recodified in RCW 9.94A.589(1)(b) pursuant to Laws of Washington 2001, Ch. 10, § 6. See, In re Pers. Restraint of Orange, 152 Wn.2d 795; 100 P.3d 291 (2004). Likewise, because the victim of the burglary in the first degree charge would be Blockbuster Video, the victim for that charge would also involve “distinct and separate” conduct from the kidnapping. This, combined with the burglary “anti-merger” provision of RCW 9A.52.050, would prevent the burglary charge from “merging” with either kidnapping charge for purposes of double jeopardy.

sentences.”¹⁵ Shea clearly entered these pleas in exchange for the State's agreement not to pursue the greater number and more serious-in-degree charges – along with individual deadly weapon/firearm enhancements on each charge – as he was facing in the original information. Like the defendant in Ermels, Shea's sentence fell far below the low end standard range for the original crimes charged involving only the kidnapping and burglary charges. See, Appendix H. Shea does not offer objective manifestation of how his requested relief can be treated as a divisible portion of the plea agreement. Therefore, because his plea agreement is indivisible under Ermels and Turley, Shea cannot claim that his stipulation to the factual and legal validity of his pleas to the challenged charges are separable from the rest of his plea agreement. As the Ermels court concluded, this court should decline to set aside the plea agreement without the requisite showing by Shea to do so, and deny his petition.

4.2. The Issues Raised By The Petitioner In His Personal Restraint Petition Should Be Time-Barred.

RCW 10.73.090(1) requires that a petition seeking collateral relief must be filed within one year after the defendant's conviction became final.

¹⁵ See, Appendix E (last page), “Findings of Fact and Conclusions of Law re:

No petition or motion for collateral attack on a judgment and sentence in a criminal case may be filed more than one year after the judgment becomes final if the judgment and sentence is valid on its face and was rendered by a court of competent jurisdiction.

RCW 10.73.090(1). Rules for Appellate Procedure (“RAP”) 16.4

incorporates the requirements of RCW 10.73.090.¹⁶ As the Washington

Exceptional Sentence – Appendix 2.4 to Judgment and Sentence.

¹⁶ RAP 16.4 states:

Rule 16.4. Personal restraint petition -- Grounds for remedy.

(a) Generally. Except as restricted by section (d), the appellate court will grant appropriate relief to a petitioner if the petitioner is under a "restraint" as defined in section (b) and the petitioner's restraint is unlawful for one or more of the reasons defined in section (c).

(b) Restraint. A petitioner is under a "restraint" if the petitioner has limited freedom because of a court decision in a civil or criminal proceeding, the petitioner is confined, the petitioner is subject to imminent confinement, or the petitioner is under some other disability resulting from a judgment or sentence in a criminal case.

(c) Unlawful nature of restraint. The restraint must be unlawful for one or more of the following reasons:

(1) The decision in a civil or criminal proceeding was entered without jurisdiction over the person of the petitioner or the subject matter; or

(2) The conviction was obtained or the sentence or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government was imposed or entered in violation of the Constitution of the United States or the Constitution or laws of the State of Washington; or

(3) Material facts exist which have not been previously presented and heard, which in the interest of justice require vacation of the conviction, sentence, or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government; or

(4) There has been a significant change in the law, whether

Supreme Court has noted, "the very purpose of RCW 10.73.090 ...is to encourage prisoners to bring their collateral attacks promptly." In re Personal Restraint of Runyan, 121 Wn.2d 432, 450, 853 P.2d 424 (1993).

A judgment is final on the date it is filed with the clerk of court, or on the date the appellate court issues its mandate disposing of a timely direct appeal from the conviction, or on the date that the United States Supreme Court denies a timely petition for certiorari to review a decision affirming the

substantive or procedural, which is material to the conviction, sentence, or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government, and sufficient reasons exist to require retroactive application of the changed legal standard; or

(5) Other grounds exist for a collateral attack upon a judgment in a criminal proceeding or civil proceeding instituted by the state or local government; or

(6) The conditions or manner of the restraint of petitioner are in violation of the Constitution of the United States or the Constitution or laws of the State of Washington; or

(7) Other grounds exist to challenge the legality of the restraint of petitioner.

(d) Restrictions. The appellate court will only grant relief by a personal restraint petition if other remedies which may be available to petitioner are inadequate under the circumstances and if such relief may be granted under RCW 10.73.090, .100, and .130. No more than one petition for similar relief on behalf of the same petitioner will be entertained without good cause shown.

Other related rules also stress the need for such matters to be raised expeditiously. See, e.g., Superior Court Criminal Rule ("CrR") 7.8, allowing the court to relieve a party from a final judgment, order, or proceeding if, inter alia, the judgment is void, or for any other reason justifying relief from the operation of the judgment. CrR 7.8 further states that such motion for relief "shall be made within a reasonable time...and is further subject to RCW 10.73.090, .100, .130, and .140."

conviction on direct appeal, whichever comes later. RCW 10.73.090(3). The one-year time limitation is mandatory and may not be extended unless one of the specifically delineated exceptions in RCW 10.73.100 applies. Shumway v. Payne, 136 Wn.2d 383, 397-398, 964 P.2d 349 (1998); RAP 16.4(d).

A defendant has the burden to show the judgment and sentence is invalid under RCW 10.73.090(1) or an exception applies under RCW 10.73.100. In re Pers. Restraint of Fuamaila, 131 Wn. App. 908, 918, 131 P.3d 318 (2006), citing In re Pers. Restraint of Turay, 150 Wn.2d 71, 82, 74 P.3d 1194 (2003), cert. denied, 544 U.S. 952, 125 S. Ct. 1704, 161 L. Ed. 2d 531 (2005).

When a judgment is invalid on its face, there is no time limit to file a personal restraint petition under RCW 10.73.090(1). A judgment and sentence is invalid on its face when "the judgment and sentence evidences the invalidity without further elaboration." In re Pers. Restraint Hemenway, 147 Wn.2d 529, 532, 55 P.3d 615 (2002). The documents considered as part of a plea agreement can be used to determine the facial validity of the judgment and sentence. Id. at 532-33.

Fuamaila, 131 Wn. App. at 918.

There is no dispute that the Shea's personal restraint petition is a collateral attack filed over six years since he entered his pleas to these charges as part of a detailed plea agreement and the judgment and sentence

was final. He has not challenged the fact that the judgment and sentence was entered by a court of competent jurisdiction. In addition, the plea documents unambiguously establish that the defendant pleaded guilty to each separate charge which he now challenges under a double jeopardy claim. The petitioner has not alleged that he was confused about any aspect of this plea agreement, nor has he set forth any reason to believe that his plea was not made knowingly, intelligently, and voluntarily. The defendant fails to provide any reason for the six-plus year delay in bringing this collateral attack. This court should find that the judgment and sentence in this case is valid on its face, and deny the petition based upon its untimeliness.

4.3. Even If The Issues Raised By The Defendant In His Petition Were Timely, They Are Without Merit.

In his petition, the defendant has cited two issues, alleging that both the second degree assault and the second degree kidnapping convictions respectively “merge” with the robbery conviction, violating the constitutional prohibition against double jeopardy.

The double jeopardy clause in the Fifth Amendment of the United States Constitution and the double jeopardy clause in Article 1, Section 9 of the Washington State Constitution provide identical protections. State

v. Glocken, 127 Wn.2d 95, 107, 896 P.2d 1267 (1995). These provisions protect against a second prosecution for the same offense after acquittal, protect against a second conviction for the same offense after conviction, and protect against multiple punishments for the same offense. Glocken, 127 Wn.2d at 100.

Imposition of more than one punishment for a certain criminal act that violates more than one criminal statute is not necessarily multiple punishment of a single offense and therefore double jeopardy. The fundamental question is whether the Legislature intended that multiple punishments be the result. State v. Calle, 125 Wn.2d 769, 776, 888 P.2d 155 (1995).

The merger doctrine is one of the means used to determine whether the Legislature authorized multiple punishments in a particular case. This doctrine applies when the Legislature has clearly indicated that in order to prove a particular degree of crime, the State must not only prove that the defendant committed that crime, but also committed an additional act which is itself defined as a crime elsewhere in the criminal code. In that instance, the two crimes may merge. State v. Freeman, 153 Wn.2d 765, 777-778, 108 P.3d 753 (2005).

The defendant claims that his conviction for robbery in the first

degree in Count III and his convictions for assault in the second degree in Count II constitute double jeopardy because they all constitute a single act.

Count II of the First Amended Information charged assault in the second degree by use of a deadly weapon, combining and alleging both Louise Rowan and Stephanie McElhiney as victims. Count III of the First Amended Information charged robbery in the first degree (while armed with a deadly weapon – firearm) and alleged the taking of property of another, specifically Blockbuster Video. Count IV of the First Amended Information charged kidnapping in the second degree, again combining and alleging both Louise Rowan and Stephanie McElhiney as victims. Although the robbery of Blockbuster Video may have, in part, involved crimes against Rowan and McElhiney, the “victim” of the robbery is still Blockbuster Video. “[W]hen offenses harm different victims, the offenses are not factually the same for purposes of double jeopardy.” State v. Baldwin, 150 Wn.2d 448, 457, 78 P.3d 1005 (2003), citing, State v. McJimpson, 79 Wn. App. 164, 169, 901 P.2d 354 (1995). Likewise, Counts II and IV contain both “civilian” victims and cannot be factually the same between the two acts because of two distinct victims. Therefore, the defendant’s claims have no merit.

V. CONCLUSION

Prior to his plea agreement with the State, Shea was facing a potential and likely prison commitment of 308 – 350 months, at least. In his plea agreement Shea agreed to cooperate with the prosecution in providing truthful information and testimony against co-defendants and, in exchange, the State would file agreed upon charges which resulted in a 168 – 204 month sentence range on the most serious charge, Robbery in the First Degree, which included the deadly weapon/firearm enhancement. The parties agreed to jointly recommend a total prison commitment for all charges of 168 months, the low-end of this sentence range. In support for his further stipulation to an exception sentence condition of five (5) years of community custody following release, Shea agreed that “[b]ut for the plea agreement in this case, defendant would be facing greater charges and lengthier sentences.” The plea agreement and First Amended Information were both filed on March 21, 2006, and Shea entered pleas of guilty that same day and was sentenced for all five, amended and mostly reduced charges, including the “dropping” of firearm/deadly weapon enhancements on four of the five charges. The plea agreement was specifically referenced and incorporated into the change of plea form. Shea further agreed to “do nothing to undermine, and shall join the State in its

sentencing recommendation...[of] a 168 month sentence,” and that he “irrevocably, knowingly, intelligently and voluntarily waives any and all objections to withdrawal of his guilty plea pursuant to this agreement. Pursuant to his plea of guilty, Shea waived his right to appeal the determinations of guilt, acknowledged that he had received a copy of the First Amended Information, and that he was entering his guilty pleas “freely and voluntarily.” Shea was advised of his rights concerning any collateral attack on this judgment in the judgment and sentence, and no appeal or collateral attack was filed until now. Over six years later, Shea makes challenges to the plea and his sentence which he previously stipulated as part of the plea agreement to not undermine. He has failed to establish any basis to set aside this plea agreement or for this court to find that he did not knowingly, intelligently and voluntarily enter his noted guilty pleas or enter into this plea agreement. Shea’s claims are certainly

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time barred, but also are without substance. For the reasons set forth

herein, the State asks that this personal restraint petition be denied.

RESPECTFULLY SUBMITTED this 31st day of August, 2006.

EDWARD G. HOLM

Prosecuting Attorney

A handwritten signature in black ink, appearing to read 'Mark Thompson', written over a horizontal line.

MARK THOMPSON/WSBA #16477

Senior Deputy Prosecuting Attorney

APPENDIX “A”

FILED
SUPERIOR COURT
THURSTON COUNTY, WASH.

00 JAN 25 PM 3: 19

BETTY J. GOULD, CLERK

BY _____
DEPUTY

**IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY**

STATE OF WASHINGTON,

Plaintiff,

vs.

JUSTIN MICHAEL SHEA
W,M,5'9,140,BRN,BRN
DOB: 12-08-80
SID: WA15677354
FBI: 63219MB1
PCN: 005832365
c/o Thurston County Jail
BOOKING NO. C91611

Defendant.

NO. 00-1-109-0

INFORMATION

JOHN M. "JACK" JONES
Senior Deputy Prosecuting Attorney

CO-DEFENDANT:
JASON ALLEN GOUDY
NO. 00-1-105-7
DOMINIC LAPRAIM
NO. 00-1-111-1
KAHLIL RANELL EDWARDS
NO. 00-1-112-0

Comes now the Prosecuting Attorney in and for Thurston County, Washington, and charges the defendant with the following crime:

COUNT I: BURGLARY IN THE FIRST DEGREE WHILE ARMED WITH A DEADLY WEAPON.
RCW 9A.52.020(1), RCW 9.94A.125 and RCW 9.94A.310:

That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of November, 1999, as principal or accomplice, with intent to commit a crime against a person or property therein, did enter or remain unlawfully in a building and while in such building or in immediate flight therefrom, the defendant or another participant in the crime was armed with a deadly weapon or assaulted a person therein. It is further alleged that during the commission of this offense, the defendant or accomplice was armed with a deadly weapon, to-wit: a firearm.

COUNT II: ASSAULT IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON-
FIREARM, RCW 9A.36.021(1)(c), RCW 9.94A.125 and RCW 9.94A.310:

That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of November, 1999, as principal or accomplice, did assault another, to-wit: Louise Rowan, with a deadly weapon, to-wit: a firearm. It is further alleged that during the commission of this offense, the defendant or an accomplice was armed with a deadly weapon, to wit: a firearm.

W.S.P. IDENT.



005832365

INFORMATION - 1

EDWARD G. HOLM
Thurston County Prosecuting Attorney
2000 Lakeridge Drive S.W.
Olympia, WA 98502
(360) 786-5540 Fax (360) 754-3358

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3 COUNT III: ASSAULT IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON -
4 FIREARM. RCW 9A.36.021(1)(c), RCW 9.94A.125 and RCW 9.94A.310:

5 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
6 November, 1999, as principal or accomplice, did assault another, to-wit: Stephanie McElhiney, with a deadly
7 weapon, to-wit: a firearm. It is further alleged that during the commission of this offense, the defendant or
8 an accomplice was armed with a deadly weapon, to wit: a firearm.

9
10 COUNT IV: ROBBERY IN THE FIRST DEGREE WHILE ARMED WITH A DEADLY WEAPON -
11 FIREARM. RCW 9A.56.200(1), RCW 9.94A.125, RCW 9.94A.310:

12 In that the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
13 November, 1999, as principal or accomplice, did unlawfully take personal property of Blockbuster Video
14 from a person, to-wit: Louise Rowan or their presence, against such person's will, by use or threatened use
15 of immediate force, violence, or fear of injury to such person or his property, with the intent to commit theft
16 of the property, and in the commission of or immediate flight therefrom, the accused was armed with a deadly
17 weapon or displayed what appeared to be a firearm. It is further alleged that during the commission of this
18 offense, the defendant or an accomplice was armed with a deadly weapon, to-wit: a firearm.

19
20 COUNT V: KIDNAPING IN THE FIRST DEGREE WHILE ARMED WITH A DEADLY WEAPON -
21 FIREARM. RCW 9A.40.020(1)(b), RCW 9.94A.125 and RCW 9.94A.310:

22 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
23 November, 1999, as principal or accomplice, did intentionally abduct another person, to-wit: Louise Rowan,
24 with intent to facilitate the commission of any felony. It is further alleged that during the commission of this
25 offense, the defendant or an accomplice was armed with a deadly weapon, to-wit: a firearm.

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27 COUNT VI: KIDNAPING IN THE FIRST DEGREE WHILE ARMED WITH A DEADLY WEAPON -
28 FIREARM. RCW 9A.40.020(1)(b), RCW 9.94A.125 and RCW 9.94A.310:

29 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
30 November, 1999, as principal or accomplice, did intentionally abduct another person, to-wit: Stephanie
31 McElhiney, with intent to facilitate the commission of any felony. It is further alleged that during the
32 commission of this offense, the defendant or an accomplice was armed with a deadly weapon, to-wit: a
33 firearm.

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35 COUNT VII: INTIMIDATING A WITNESS WHILE ARMED WITH A DEADLY WEAPON -
36 FIREARM. RCW 9A.72.110(1), RCW 9.94A.125 and RCW 9.94A.310:

37 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
38 November, 1999, as principal or accomplice, by use of a threat directed to a current or prospective witness,
39 to-wit: Louise Rowan, did attempt to influence the testimony of such person, or induce that person to elude
40 legal process summoning him or her to testify or induce that person to absent him or her self from such
41 proceedings, or induce that person not to report the information relevant to a criminal investigation or not
42 give truthful or complete information relevant to a criminal investigation. It is further alleged that during the
43 commission of this offense, the defendant or an accomplice was armed with a deadly weapon, to-wit: a
44 firearm.

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3 COUNT VIII: MALICIOUS MISCHIEF IN THE SECOND DEGREE, WHILE ARMED WITH A
4 DEADLY WEAPON-FIREARM, RCW 9A.48.080(1)(a), 9.94A.125, 9.94A.310:

5 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
6 November, 1999, as principal or accomplice, did knowingly and maliciously cause physical damage to the
7 property of another, in excess of \$250. It is further alleged that during the commission of this offense the
8 defendant or accomplice was armed with a deadly weapon.

9 DATED this 25th day of January, 2000.

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11 JOHN M. "JACK" JONES, WSBA#16786
12 Senior Deputy Prosecuting Attorney
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APPENDIX “B”

FILED
SUPERIOR COURT
THURSTON COUNTY WA

2000 MAR 21 PM 2: 53

BETTY J. GOULD, CLERK

BY  DEPUTY

**IN THE SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY**

STATE OF WASHINGTON,

Plaintiff,

vs.

JUSTIN MICHAEL SHEA
W,M,5'9,140,BRN,BRN
DOB: 12-08-80
SID: WA15677354
FBI: 63219MB1
PCN: 005832365
c/o Thurston County Jail
BOOKING NO. C91611

Defendant.

NO. 00-1-109-0

**FIRST AMENDED
INFORMATION**

JOHN M. "JACK" JONES

Senior Deputy Prosecuting Attorney

CO-DEFENDANT:

JASON ALLEN GOUDY

NO. 00-1-105-7

DOMINIC LAPRAIM

NO. 00-1-111-1

KAHLIL RANELL EDWARDS

NO. 00-1-112-0

Comes now the Prosecuting Attorney in and for Thurston County, Washington, and charges the defendant with the following crime:

COUNT I: BURGLARY IN THE FIRST DEGREE, RCW 9A.52.020(1):

That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of November, 1999, as principal or accomplice, with intent to commit a crime against a person or property therein, did enter or remain unlawfully in a building and while in such building or in immediate flight therefrom, the defendant or another participant in the crime was armed with a deadly weapon or assaulted a person therein.

COUNT II: ASSAULT IN THE SECOND DEGREE, RCW 9A.36.021(1)(c):

That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of November, 1999, as principal or accomplice, did assault another, to-wit: Louise Rowan and Stephanie McElhiney, with a deadly weapon, to-wit: a firearm.

COUNT III: ROBBERY IN THE FIRST DEGREE WHILE ARMED WITH A DEADLY WEAPON - FIREARM, RCW 9A.56.200(1), RCW 9.94A.125, RCW 9.94A.310:

In that the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of November, 1999, as principal or accomplice, did unlawfully take personal property of Blockbuster Video from a person, to-wit: Louise Rowan or their presence, against such person's will, by use or threatened use of immediate force, violence, or fear of injury to such person or his property, with the intent to commit theft

W.S.P. IDENT.



005832365

INFORMATION - 1

EDWARD G. HOLM
Thurston County Prosecuting Attorney
2000 Lakeridge Drive S.W.
Olympia, WA 98502
(360) 786-5540 Fax (360) 754-3358

1 of the property, and in the commission of or immediate flight therefrom, the accused was armed with a
2 deadly weapon or displayed what appeared to be a firearm. It is further alleged that during the commission
of this offense, the defendant or an accomplice was armed with a deadly weapon, to-wit: a firearm.

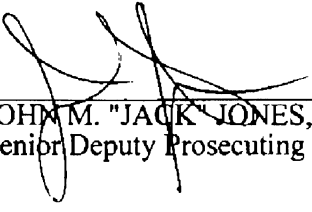
3 COUNT IV: KIDNAPING IN THE SECOND DEGREE, RCW 9A.40.030(1):

4 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
5 November, 1999, as principal or accomplice, did intentionally abduct another person, to-wit: Louise Rowan
and Stephanie McElhiney, with intent to facilitate the commission of any felony.

6 COUNT V: MALICIOUS MISCHIEF IN THE SECOND DEGREE, RCW 9A.48.080(1)(a):

7 That the defendant, JUSTIN MICHAEL SHEA, in the State of Washington, on or about the 16th day of
8 November, 1999, as principal or accomplice, did knowingly and maliciously cause physical damage to the
property of another, in excess of \$250.

9 DATED this 20th day of March, 2000.

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12 JOHN M. "JACK" JONES, WSBA#16786
Senior Deputy Prosecuting Attorney
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APPENDIX “C”

FILED
SUPERIOR COURT
THURSTON COUNTY WA

No. 00-(- 109 - 0

2000 MAR 21 / PM 2:53

DETTY J. GOULD, CLERK

BY _____
DEPUTY

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v.

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1. My true name is Justin Michael Shea

2. My age is 19

3. I went through the 12 grade.

4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:

(a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be

(b) I am charged with the crime(s) of:

(b) I am charged with the crime(s) of: Burglary 1st; Assault 2^o; Robbery 1st - White
Armed with a deadly weapon - Firearm; Kidnapping 2^o; Molestation 2^o

The elements of the crime(s) are: - See First Amended Information filed herein -

_____, as set forth in the State's information, which is incorporated herein by this reference.

5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING

(a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have

(b) The right to remain silent before and during the trial, and the right to refuse to testify against myself;

(c) The right at trial to hear and question the witnesses who testify against me;

(d) The right at trial to have witnesses testify for me and made to appear at no expense to me;

(e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;

(f) The right to appeal a determination of guilt after a trial.

6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:

(a) The crime(s) with which I am charged carries the maximum sentence LIFE years imprisonment and a \$ 50,000 fine. The standard sentence range is from 108-144 months to 60 months confinement, based on the prosecuting attorney's understanding of my criminal history.

(b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes my prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.

(d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase, and community placement may be required if a department of corrections, prison sentence results and I am convicted of a community placement offense, as explained in the SRA score sheet which is incorporated herein by this reference (see paragraph "k" below). Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase, and even though a mandatory sentence of life imprisonment without the possibility of parole is required by law.

(e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$ 500 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, community placement, impose restrictions on my activities, and order me to perform community service, and impose crime related prohibitions.

(f) The prosecuting attorney will make the following recommendation to the judge:

168 MONTHS, 60 MOS. COMM. CUSTODY, COSTS, CUP, STIA. EXCEPTIONAL
SENTENCE, COMM. ALCA AGREEMENT IS INCORPORATED HEREIN
BY THIS REFERENCE.

(g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.

(h) If I am not a citizen of the United states, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United states, or denial of naturalization pursuant to the laws of the United States.

(i) The crime(s) of _____ has a mandatory minimum sentence of at least _____ years of total confinement. The law does not allow any reduction of this sentence. This mandatory minimum sentence is not the same as the mandatory sentence of life imprisonment without the possibility of parole described in paragraph 6(a)(ii). *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

M (j) I am being sentenced for two or more serious violent offenses arising from separate and distinct criminal conduct and the sentences imposed on counts _____ and _____ will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(k) A term or terms of confinement totaling more than one year shall be served in the department of corrections. In addition to confinement in prison (the department of corrections) or in the county jail:

M (i) **Prison:** The judge will sentence me to community placement as follows: When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When a court sentences a person to a term of total confinement to the custody of the department of correction for an offense categorized as a sex offense committed on or after July 1, 1990, but before June 6, 1996, a serious violent offense, vehicular homicide, or vehicular assault, committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. When a court sentences a person to the custody of the department of corrections for an offense categorized as a sex offense committed on or after June 6, 1996, the court shall, in addition to other terms of the sentence, sentence the offender to community custody for three years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community custody shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

M (ii) **Jail:** On all sentences of confinement for one year or less, the court may impose up to one year of community supervision. An offender shall be on community supervision as of the date of sentencing. However, during the time for which the offender is in total or partial confinement pursuant to the sentence or a violation of the sentence, the period of community supervision shall toll. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(l) The judge may sentence me as a first time offender, instead of giving a sentence within the standard range, if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement, twenty-four months

of community supervision, plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(m) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(n) If the crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(p) Because this crime involves kidnapping of a minor child that is not a relative, or a sex offense, I will be required to register with the sheriff of the county of the state of Washington where I reside. I must register immediately upon being sentenced unless I am in custody, in which case I must register within 24 hours of my release.

If I leave this state following my sentencing or release from custody but later move back to Washington, I must register within 30 days after moving to this state or within 24 hours after doing so if I am under the jurisdiction of this state's Department of Corrections.

If I change my residence within a county, I must send written notice of my change of residence to the sheriff at least 14 days before moving and must register again with the sheriff within 24 hours of moving. If I change my residence to a new county within this state, I must send written notice of my change of residence to the sheriff of my new county at least 14 days before moving, register with that sheriff within 24 hours of moving and I must give written notice of my change of address to the sheriff of the county where last registered within 10 days of moving. If I move out of Washington State, I must also send written notice within 10 days of moving to the county sheriff with whom I last registered in Washington State. *(If not applicable, these three paragraphs should be stricken and initialed by the defendant and the judge.)*

(q) This offense is a most serious offense as defined by RCW 9.94A.030, and if I have at least two prior convictions for most serious offenses (or at least one prior conviction for a most serious offense in the case of a current conviction for certain sex offenders), whether in this state, in federal court, or elsewhere, the crime for which I am charged carries a mandatory sentence of life imprisonment without the possibility of parole. *(If not applicable, this paragraph should be stricken and initialed by the defendant and the judge.)*

(r) I understand that I may not possess, own or have under my control any firearm unless my right to do so is restored by a court of record and that I must immediately surrender any concealed pistol license. (PURSUANT TO RCW 9.41.047(1), THE JUDGE SHALL READ THIS SECTION TO THE DEFENDANT IN OPEN COURT IF THE DEFENDANT IS PLEADING GUILTY TO A FELONY OR ANY OF THE FOLLOWING CRIMES WHEN COMMITTED BY ONE FAMILY OR HOUSEHOLD MEMBER AGAINST ANOTHER: ASSAULT IN THE FOURTH DEGREE, COERCION, STALKING, RECKLESS ENDANGERMENT, CRIMINAL TRESPASS IN THE FIRST DEGREE, OR VIOLATION OF THE PROVISIONS OF A PROTECTION ORDER OR NO-CONTACT ORDER RESTRAINING THE PERSON OR EXCLUDING THE PERSON FROM A RESIDENCE (RCW 25.50.060, 26.50.070, 26.50.130, OR 10.99.040)). THE CLERK SHALL FORWARD A COPY OF THE DEFENDANTS DRIVER'S LICENSE, IDENTICARD, OR COMPARABLE IDENTIFICATION TO THE DEPARTMENT OF LICENSING ALONG WITH THE DATE OF CONVICTION.)

7. I plead GUILTY to the crime(s) of: Burglary 1°, Robbery 1°, White Arson with Firearm,
Assault 2°, Kidnapping 2° and Malignant Mischief 2°

as charged in the 1st Amended information. I have received a copy of that information.

8. I make this plea freely and voluntarily.

9. No one has threatened harm of any kind to me, or to any other person, to cause me to make this plea.

10. No person has made promises of any kind to cause me to enter this plea except as set forth on this statement.

11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement: On November 16, 1999 in Thurston County, 3 co-defendants and I

unlawfully entered Blockbuster Video. One of my co-defendants assaulted
Larise Rowan by pointing a gun at her. We then unlawfully took money
from Blockbuster by threatened use of immediate force and one of the co-
defendants was armed with a gun. We abducted one of the employees

by forcing her into the restroom in order to facilitate the robbery. I also knowingly and maliciously damaged property belonging to Blockbuster, in an amount greater than \$250.

12. My lawyer has explained to me, and we fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

DEFENDANT'S ADDRESS:

Defendant

I have read and discussed this statement with the defendant and I believe that the defendant is competent and fully understands this statement, and makes this plea freely, knowingly, and voluntarily.

Deputy Prosecuting Attorney, WSBA# 6786

Defendant's Lawyer, WSBA#

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check the appropriate item):

- ☒ (a) the defendant had previously read; or
☒ (b) The defendant's lawyer had previously read to him or her; or
* ☐ (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.**

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 21 day of March, 2000

JUDGE
CHRISTINE A. POMEROY

* I am a certified interpreter or have been found otherwise qualified by the court to interpret in the _____ language which the defendant understands, and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this _____ day of _____

Interpreter

****Verification by Interpreter.** If a defendant is not fluent in the English language, a person the court has determined has fluency in the defendant's language shall certify that the above written statement of defendant upon plea of guilty has been translated orally or in writing and that the defendant has acknowledged that he or she understands the translation.

APPENDIX “D”

FILED
SUPERIOR COURT
THURSTON COUNTY WA

2000 MAR 21 PM 2:53

BETTY J. GOULD, CLERK

DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THURSTON COUNTY

STATE OF WASHINGTON

Plaintiff,

NO. 00-1-109-0

vs.

PLEA AGREEMENT

JUSTIN MICHAEL SHEA,

Defendant.

The State will allow the defendant to plead guilty to, *Burglary in the First Degree, Robbery in the First Degree While Armed with a Deadly weapon-Firearm, Assault in the Second Degree, Kidnaping in the Second Degree, and Malicious Mischief in the Second*), under the following conditions:

1. The defendant shall plead guilty to these charges and shall accept responsibility for defendant's part in having committed these offenses. Defendant shall agree with, do nothing to undermine, and shall join the State in its sentencing recommendation, and agree to a stipulated exceptional sentence as to the period of community custody.
2. The defendant's plea will be guilty to the charges listed above. The defendant's total standard range for these charges, is 168-204 months. The State will recommend a 168 month sentence and a 60 month period of community custody, if the below conditions are met. Defendant hereby acknowledges the right to be sentenced within 40 court days of defendant's guilty plea, and hereby irrevocably, knowingly, intelligently and voluntarily waives immediate sentencing and agrees to not be sentenced until after completion of the trial of any and all other participants in this crime who may be charged, tried or plead guilty.
3. The defendant shall attend all court and/or other proceedings, voluntarily participate in any additional truthful, complete, and comprehensive interviews, along with any necessary follow-up interviews requested by the

1 State, and provide every detail of defendant's own participation in these
2 offenses, as well as that of every other person's participation, actions, or
3 inactions, in Tumwater Police case #99-3219.

4 4. In the event that the defendant is deceptive, untruthful, incomplete, or if
5 defendant in any way fails in any of defendant's obligations under this
6 agreement or attempts to evade any of defendant's responsibilities under this
7 agreement, the State and the defendant hereby stipulate and agree to the
8 withdrawal of the defendant's guilty plea, judgement and sentence, upon
9 notice by the State, after which time defendant shall be subject to
10 prosecution for all appropriate charges originally available out of these
11 incidents. The defendant hereby irrevocably, knowingly, intelligently and
12 voluntarily waives any and all objections to withdrawal of his guilty plea
13 pursuant to this agreement, and his subsequent bench trial on the charges
14 that will be brought against him, and he acknowledges and hereby
15 irrevocably, knowingly, intelligently and voluntarily waives his right to a
16 speedy trial within 60 days of his original arraignment and/or arraignment
17 on an amended information. Defendant acknowledges his right to a jury
18 trial, and hereby irrevocably makes this knowing, intelligent and voluntary
19 waiver of that right.


20 5. Defendant must willingly testify completely and truthfully on behalf of the
21 State in the trial of any and all individuals charged in connection with the
22 crimes described above.

23 6. If the State finds, in good faith, that the defendant has failed under any of
24 defendant's obligations under this agreement, then the defendant stipulates
25 and agrees that the State is released from its sentencing recommendation
26 obligation; that defendant's guilty plea, and judgement and sentence, will be
withdrawn, and the State will be free to file all appropriate charges
originally available from the cases referenced above, and related incidents.
Defendant shall be entitled to a hearing by this court in the event defendant
alleges the State has acted in bad faith in finding that the defendant has

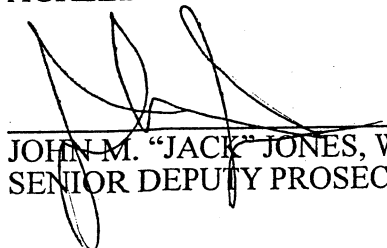
1 failed under any of defendant's obligations under this agreement. Defendant
2 shall have the burden of proof, by a preponderance of the evidence, at such
3 hearing. Defendant further irrevocably voluntarily, knowingly, and
4 intelligently waives defendant's right to a jury trial and stipulates to the
5 admission at defendant's bench trial, without objection, of all reports and
6 statements regarding the cases referenced in paragraph three, and all
7 related incidents, as supplemented by any further investigation, and
8 including the defendant's own custodial statements, if any, and the
9 statements of all other victims, witnesses and/or participants.

10 I have read the above agreement and have had the agreement explained to me by my attorney. I fully
11 understand this agreement and knowingly, voluntarily, and intelligently, agree to be bound by its terms.

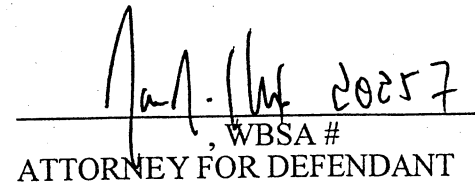
12 Dated this 21st day of MARCH, 2000.

13 
JUSTIN MICHAEL SHEA

14 AGREED TO ON BEHALF OF THE PLAINTIFF:

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17 JOHN M. "JACK" JONES, WSBA #16786
18 SENIOR DEPUTY PROSECUTING ATTORNEY

REVIEWED AND APPROVED:

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ATTORNEY FOR DEFENDANT

APPENDIX “E”

SUPERIOR COURT OF WASHINGTON
COUNTY OF THURSTON

STATE OF WASHINGTON, Plaintiff,

No.00-1-109-0

FILED
SUPERIOR COURT
THURSTON COUNTY WA
2000 MAR 21 PM 2:51

JUSTIN MICHAEL SHEA ,
Defendant.

PCN: 005832365

SID:WA19722388

If no SID, use DOB:12-08-80

JUDGMENT AND SENTENCE

[x] Prison

[] Jail One Year or Less

[] First Time Offender

[] Special Sexual Offender Sentencing Alternative

[] Special Drug Offender Sentencing Alternative

BETTY J. GOULD, CLERK
(JS)

DEPUTY

I. HEARING

1.1 A sentencing hearing was held on March 21, 2000 and the defendant, the defendant's lawyer and the deputy prosecuting attorney were present.

II. FINDINGS

There being no reason why judgment should not be pronounced, the Court FINDS:

2.1 CURRENT OFFENSE(S): The defendant was found guilty on March 21, 2000
by [X] plea [] jury verdict [] bench trial of:

W.S.P. IDENT.



005832365

COUNT	CRIME	RCW	DATE OF CRIME
I	BURGLARY IN THE FIRST DEGREE	9A.52.020(1)	November 16, 1999
II	ASSAULT IN THE SECOND DEGREE	9A.36.021(1)(c)	November 16, 1999
III	ROBBERY IN THE SECOND DEGREE WHILE ARMED WITH A DEADLY WEAPON - FIREARM	9A.56.200(1) 9.94A.125 9.94a.310	November 16, 1999
IV	KIDNAPING IN THE SECOND DEGREE	9A.40.030(1)	November 16, 1999
V	MALICIOUS MISCHIEF IN THE SECOND DEGREE	9A.48.080(1)(a)	November 16, 1999

as charged in the (FIRST AMENDED) Information

[] Additional current offenses are attached in Appendix 2.1

[X] A special verdict/finding for use of a firearm was returned on Count(s) III RCW 9.94A.125, .310

[] A special verdict/finding for use of a deadly weapon other than a firearm was returned on Count(s) _____
RCW 9.94A.125, .310

[] A special verdict/finding of sexual motivation was returned on Count(s) _____ RCW 9.94A.127

[] A special verdict/finding for Violation of the Uniform Controlled Substances Act was returned on Count(s) _____,
RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or
within 1000 feet of a school bus route stop designated by the school district; or in a public park, in a public transit vehicle, or in a public
stop shelter.

[] The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the
influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW
9.94A.030

[] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW
9.94A.400):

[] Other current conviction listed under different cause numbers used in calculating the offender score are (list offense and cause number):

JUDGMENT AND SENTENCE (Felony- Prison, More than one Year

(RCW 9.94A.110, .120)(WPF CR 84.0400 (7/95))

Cause No. 00-1-109-0

Page 1 of 8

2.2 **CRIMINAL HISTORY:** Prior convictions constituting criminal history for purposes of calculating the offender score are (RCW 9.94A.360)

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult or Juv.	TYPE OF CRIME
THEFT IN THE FIRST DEGREE	02-15-00	THURSTON COUNTY 99-1-1441-7	09-07-99	A	NV

- ☐ Additional criminal history is attached in Appendix 2.2
☐ The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.360
☐ The court finds that the following prior convictions are one offense for purposes of determining the offender score (RCW 9.94A.360):

2.3 **SENTENCING DATA:**

COUNT NO.	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	Plus enhancement for Firearm (F), other deadly weapon finding (D), or VUCSA (V) in a protected zone	Total STANDARD RANGE (including enhancements)	MAXIMUM TERM
I	8	VII	77-102 mos.	N/A	77-102 mos.	LIFE
II	8	IV	53-70 mos.	N/A	53-70 mos.	10 YRS
III	8	IX	108-144 mos.	60 mos.	168-204 mos.	LIFE
IV	8	V	62-82 mos.	N/A	62-82 mos.	10 YRS.
V	5	I	4-12 mos.	N/A	4-12 mos.	5 YRS.

- ☐ Additional current offense sentencing data in Appendix 2.3

2.4 ☒ **EXCEPTIONAL SENTENCE:** Substantial and compelling reasons exist which justify an exceptional sentence ☒ above ☐ within ☐ below the standard range for

Count(s) I-IV. Findings of fact and conclusions of law are attached in Appendix 2.4. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 **ABILITY TO PAY LEGAL FINANCIAL OBLIGATIONS.** The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.142

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.142): _____

2.6 For violent offenses, most serious offenses, or armed offenders recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____

III. JUDGMENT

3.1 The defendant is **GUILTY** of the Counts and Charges listed in paragraph 2.1 and Appendix 2.1

3.2 ☐ The Court **DISMISSES** Counts _____

3.3 ☐ The defendant is found **NOT GUILTY** of Counts _____

IV. SENTENCE AND ORDER

IT IS ORDERED:

4.1 Defendant shall pay to the Clerk of the Court
\$ 3932.79 Restitution to: BLOCK BUSTER VIALDO, LOSS PREVENTION MGR, 1011 SOUTHWEST KETCHIKAT WAY BLDG. C - UNIT #107, SEATTLE, WA 98134
JASS CODE \$ 665.53 Restitution to: L & I, P.O. BOX 44288, OLYMPIA, WA 98504-4288 (CHS # A276395)
RTN/RJN \$ _____ Restitution to: _____
(Name and Address-address may be withheld and provided confidentially to Clerk's Office)
PCV \$ 500 Victim Assessment RCW 7.68.035
CRC \$ 110 Court costs, including: RCW 9.94A.030, 9.94A.120, 10.01.160, 10.46.190
Criminal Filing fee \$ _____ FRC
Witness costs \$ _____ WFR
Sheriff service fees \$ _____ SFR/SFS/SFW/SRF
Jury demand fee \$ _____ JFR
Other \$ _____
PUB \$ _____ Fees for court appointed attorney RCW 9.94A.030
WFR \$ _____ Court appointed defense expert and other defense costs RCW 9.94A.030
FCM \$ _____ Fine RCW 9A.20.021; ☐ VUSCA additional fine deferred due to indigency RCW 69.50.430
CDF/LDV \$ _____ Drug enforcement fund of _____ RCW 9.94A.030
FCD/NTF/SAD/SDI
CLF \$ _____ Crime lab fee ☐ deferred due to indigency RCW 43.43.690
EXT \$ _____ Extradition costs RCW 9.94A.120
\$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1,000 maximum) RCW 38.52.430
\$ _____ Other costs for: _____
\$ 5208.32 TOTAL RCW 9.94A.145

☐ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.142. A restitution hearing:
☐ shall be set by the prosecutor
☐ is scheduled for _____

☐ **RESTITUTION.** Schedule attached, Appendix 4.1

☒ Restitution ordered above shall be paid jointly and severally with:

NAME of other defendant	CAUSE NUMBER	(Victim Name)	(Amount\$)
JASON GOVAY	00-1-105-7	BOTH	ALL
DOMINIC LARSON	00-1-111-1	"	"
KARLIL EDWARDS	00-1-112-0	"	"

☒ The Department of Corrections may immediately issue a Notice of Payroll Deduction.
RCW 9.94A.200010

All payments shall be made in accordance with the policies of the clerk and on a schedule established by the Department of Corrections, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____. RCW 9.94A.145

☐ In addition to the other costs imposed herein the Court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the statutory rate. RCW 9.94A.145

☒ The defendant shall pay the costs of services to collect unpaid legal financial obligations. RCW 36.18.190

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73

4.2 ☐ HIV TESTING. The Health Department or designee shall test and counsel the defendant for HIV as soon as possible and the defendant shall fully cooperate in the testing.
RCW 70.24.340

☐ DNA TESTING. The defendant shall have a blood sample drawn for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency, the county of Department of Corrections, shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

4.3 The defendant shall not use, own, or possess firearms or ammunition while under the supervision of the Department of Corrections.
RCW 9.94A.120

4.4 The Defendant shall not have contact with STEPHANIA MURCHINSKY
BLOCK BUSTER VIALDO, TURNER (name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for LIFE years (not to exceed the maximum statutory sentence.).

☐ Domestic Violence Protection Order or Anti-Harassment Order is attached as Appendix 4.4.

4.5 OTHER: _____

4.6 CONFINEMENT OVER ONE YEAR. The defendant is sentenced as follows:

(a) CONFINEMENT. RCW 9.94A.400. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections:

102 months on Count I

82 months on Count IV

70 months on Count II

12 months on Count IV

168 months on Count III

_____ months on Count _____

INCLUDE 60 MOS
PENITENTIARY

Actual number of months of total confinement ordered is: 168 MO.
(Add mandatory firearm or deadly weapons enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above).

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm or other deadly weapon as set forth above at Section 2.3, and the following which shall be served consecutively: _____

The sentence herein shall run concurrently with the sentence in cause number(s) _____
but consecutively to any other felony cause not referred to in this Judgment. RCW 9.94A.400

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.120. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: _____

- 4.7 ☐ COMMUNITY PLACEMENT is ordered on Counts _____ for _____ months
☒ COMMUNITY CUSTODY is ordered on Counts I-IV for 60 months or for the period of earned release awarded pursuant to RCW 9.94A.150(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.120(9) for community placement offenses—serious violent offense, second degree assault, any crime against a person with a deadly weapon finding, Chapter 69.50 or 69.52 RCW offense. Community custody follows a term for a sex offense – RCW 9.94A.120(10). Use paragraph 4.8 to impose community custody following work ethic camp.]
While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at Department of Corrections-approved education, employment and/or community service; (3) not consume controlled substances except pursuant to lawfully issued prescriptions; (4) not unlawfully possess controlled substances while in community custody; (5) pay supervision fees as determined by the Department of Corrections; (6) perform affirmative acts necessary to monitor compliance with the orders of the court as required by the Department of Corrections. The residence location and living arrangements are subject to the prior approval of the Department of Corrections while in community placement or community custody. Community custody for sex offenders may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.
☐ The defendant shall not consume any alcohol.
☒ Defendant shall have no contact with: STEPHANIA McELHINAY OR BLOCKBUSTER VIDEO

☐ Defendant shall remain ☐ within ☐ outside of a specified geographical boundary, to-wit: _____

☐ The defendant shall participate in the following crime-related treatment or counseling services: _____

☐ The defendant shall comply with the following crime-related prohibitions: _____

Other conditions may be imposed by the court or Department during community custody, or are set forth here: _____

STANDARD EXCEPTIONAL SENTENCE

- 4.8 ☐ WORK ETHIC CAMP. RCW 9.94A.137, RCW 72.09.410. The court finds that defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. If the defendant successfully completes work ethic camp, the department shall convert the period of work ethic camp confinement at the rate of one day of work ethic camp to three days of total standard confinement. Upon completion of work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions of community custody. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.7.

- 4.9 OFF LIMITS ORDER (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the County Jail or Department of Corrections: _____

V. NOTICES AND SIGNATURES

5.1 **COLLATERAL ATTACK ON JUDGMENT.** Any petition or motion for collateral attack on this judgment and sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090

5.2 **LENGTH OF SUPERVISION.** The defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to ten years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations. RCW 9.94A.145.

5.3 **NOTICE OF INCOME-WITHHOLDING ACTION.** If the court has not ordered an immediate notice of payroll deduction in paragraph 4.1, you are notified that the Department of Corrections may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.200010. Other income-withholding action under RCW 9.94A may be taken without further notice. RCW 9.94A.200030

5.4 **RESTITUTION HEARING.**

☐ Defendant waives any right to be present at any restitution hearing (sign initials): _____

5.5 Any violation of this Judgment and Sentence is punishable by up to 60 days of confinement per violation. RCW 9.94A.200

Cross off if not applicable:

5.6 **FIREARMS.** You may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The court clerk shall forward a copy of the defendant's driver's license, identicard, or comparable identification, to the Department of Licensing along with the date of conviction or commitment). RCW 9.41.040, 9.41.047

5.8 **OTHER:** BAIL, IF ANY, IS HEREBY EXONERATED AND SHALL BE RETURNED TO THE POSTING PARTY

Done in Open Court in the presence of the defendant this date: 3/21/00

Senior Deputy Prosecuting Attorney
WSBA#16786
Print name: JOHN M. "JACK" JONES

Attorney for Defendant
WSBA#20257
Print name: JAMES DIXON

Defendant

JUDGE Print name:

CHRISTINE A. POMEROY

Translator signature/Print name: _____
I am a certified interpreter of, or the court has found me otherwise qualified to interpret, the _____ language,
which the defendant understands. I translated this Judgment and Sentence for the defendant into that language.
CAUSE NUMBER of this case: 00-1-109-0

I, Betty J. Gould, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of said County and State, by: _____, Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. WA19722388

(If no SID take fingerprint card for State Patrol)

Date of Birth 12-08-80

FBI No. UNKNOWN

Local ID No. C91611

PCN No. 005832365

Other _____

Alias name, SSN, DOB: 532-11-7325 12-08-80

Race:

☐ Asian/Pacific Islander

☐ Black/ African-American

☒ Caucasian

Ethnicity:

☐ Hispanic

Sex:

☒ Male

☐ Native American

☐ Other: _____

☐ Non-hispanic

☐ Female

FINGERPRINTS I attest that I saw the same defendant who appeared in Court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court: K. Woods, Deputy Clerk. Dated: 3/21/08

DEFENDANT'S SIGNATURE:

Justice Michael Sher

Left 4 fingers taken simultaneously	Left Thumb	Right Thumb	Right 4 fingers taken simultaneously
-------------------------------------	------------	-------------	--------------------------------------



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON

NO. 00-1-109-0

Plaintiff,

WARRANT OF COMMITMENT ATTACHMENT
TO JUDGMENT AND SENTENCE (PRISON)

vs.

JUSTIN MICHAEL SHEA,

Defendant.

DOB: 12-08-80
SID: WA19722388 FBI: UNKNOWN
PCN: 005832365
RACE: W
SEX: M
BOOKING NO: C91611

THE STATE OF WASHINGTON TO:

The Sheriff of Thurston County and to the proper officer of the Department of Corrections.

The defendant JUSTIN MICHAEL SHEA has been convicted in the Superior Court of the State of Washington for the crime(s) of: BURGLARY IN THE FIRST DEGREE, ASSAULT IN THE SECOND DEGREE, ROBBERY IN THE SECOND DEGREE, WHILE ARMED WITH A DEADLY WEAPON - FIREARM, KIDNAPING IN THE SECOND DEGREE, AND MALICIOUS MISCHIEF IN THE SECOND DEGREE

and the court has ordered that the defendant be sentenced to a term of imprisonment as set forth in the Judgment and Sentence.

YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections; and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence.

By direction of the Honorable:

CHRISTINE A. POMEROY

BETTY J. GOULD
CLERK

By: K. Woods
DEPUTY CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

STATE OF WASHINGTON,

Plaintiff,

vs.

JUSTIN MICHAEL SHEA,

Defendant.

NO. 00-1-109-0

FINDINGS OF FACT AND
CONCLUSIONS OF LAW RE:
EXCEPTIONAL SENTENCE -
APPENDIX 2.4 TO JUDGMENT
AND SENTENCE

I. FINDINGS OF FACT

The Court finds the following aggravating factors:

1. The parties stipulate and agree that there are substantial and compelling reasons justifying an exceptional sentence allowing for a five year period of community custody.
2. But for the plea agreement in this case, defendant would be facing greater charges and lengthier sentences.

Based upon the above stipulation and findings of fact, the Court finds the presence of aggravating circumstances, as to the length of the period of community custody, to the extent stipulated by the parties.

II. CONCLUSIONS OF LAW

The court concludes that, based upon the above stipulation and findings, there are substantial and compelling reasons justifying an exceptional sentence outside of the standard range, to the limit of the parties stipulation, justifying a five year period of community custody.

DATED this 21 day of March 2000.

JUDGE

CHRISTINE A. POMEROY

AGREED TO AND APPROVED BY:

PRESENTED BY:

JOHN M. "JACK" JONES, WSBA # 16786
Senior Deputy Prosecuting Attorney

And. M. 20257, WSBA#
Attorney for Defendant

Justin Shea
JUSTIN MICHAEL SHEA, Defendant

APPENDIX “F”

BURGLARY, FIRST DEGREE

(RCW 9A 52 020)

CLASS A FELONY

BURGLARY 1 (VIOLENT)

(If sexual motivation finding/verdict, use form on page III-22)

I. OFFENDER SCORING (RCW 9.94A.360 (10))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY:

Enter number of serious violent and violent felony convictions x 2 =
 Enter number of Burglary 2 or Residential Burglary convictions x 2 =
 Enter number of other nonviolent felony convictions x 1 =

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions x 2 =
 Enter number of Burglary 2 or Residential Burglary dispositions x 1 =
 Enter number of other nonviolent felony dispositions x 1/4 =

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other serious violent and violent felony convictions x 2 =
 Enter number of Burglary 2 or Residential Burglary convictions x 2 =
 Enter number of other nonviolent felony convictions x 1 =

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), + 1 =

Total the last column to get the Offender Score.
 (Round down to the nearest whole number)

8

II. SENTENCE RANGE

A. OFFENDER SCORE:
 STANDARD RANGE
 (LEVEL VII)

0	1	2	3	4	5	6	7	8	9 or more
15 - 20 months	21 - 27 months	26 - 34 months	31 - 41 months	36 - 48 months	41 - 54 months	57 - 75 months	67 - 89 months	77 - 102 months	87 - 116 months

- B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).
 C. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.
 D. One year of community placement must be served following release from state prison (RCW 9.94A.120).

00-1-109-0
 FILED
 COUNTY SUPERIOR COURT
 THURSTON COUNTY WA
 2000 MAR 21 PM 2:53
 BETTY J. GOULD, CLERK
 BY _____
 DEPUTY

00-1-109-0
COUNT II

ASSAULT, SECOND DEGREE

(RCW 9A.36.021)

CLASS B FELONY

VIOLENT

(If sexual motivation finding/verdict, use form on page III-37)

I. OFFENDER SCORING (RCW 9.94A.360 (8))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY:

Enter number of serious violent and violent felony convictions 1 x 2 = 2
Enter number of nonviolent felony convictions 1 x 1 = 1

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 0 x 2 = 0
Enter number of nonviolent felony dispositions 0 x 1/2 = 0

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other serious violent and violent felony convictions 3 x 2 = 6
Enter number of nonviolent felony convictions 1 x 1 = 1

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), 0 + 1 = 0

Total the last column to get the Offender Score
(Round down to the nearest whole number)

8

II. SENTENCE RANGE

A. OFFENDER SCORE:
STANDARD RANGE
(LEVEL IV)

0	1	2	3	4	5	6	7	8	9 or more
3 - 9 months	6 - 12 months	12+ - 14 months	13 - 17 months	15 - 20 months	22 - 29 months	33 - 43 months	43 - 57 months	53 - 70 months	63 - 84 months

- B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).
C. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.
D. One year of community placement must be served following release from state prison (RCW 9.94A.120).

III. SENTENCING OPTIONS

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380).
B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383).

00-1-109-0
COUNT III

ROBBERY, FIRST DEGREE

(RCW 9A 58.200)

CLASS A FELONY

VIOLENT

(If sexual motivation finding/verdict, use form on page III-37)

I. OFFENDER SCORING (RCW 9.94A.360 (8))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY

Enter number of serious violent and violent felony convictions..... 1 x 2 = 2
Enter number of nonviolent felony convictions..... 1 x 1 = 1

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions..... 0 x 2 = 0
Enter number of nonviolent felony dispositions..... 0 x 1/2 = 0

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other serious violent and violent felony convictions..... 3 x 2 = 6
Enter number of nonviolent felony convictions..... 1 x 1 = 1

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), 0 + 1 = 1

Total the last column to get the Offender Score
(Round down to the nearest whole number)

8

II. SENTENCE RANGE

A. OFFENDER SCORE:
STANDARD RANGE
(LEVEL IX)

0	1	2	3	4	5	6	7	8	9 or more
31 - 41 months	36 - 48 months	41 - 54 months	46 - 61 months	51 - 68 months	57 - 75 months	77 - 102 months	87 - 116 months	108 - 144 months	129 - 171 months

- B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).
C. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.
D. One year of community placement must be served following release from state prison (RCW 9.94A.120).

GENERAL DEADLY WEAPON ENHANCEMENT - FORM AFirearm or Other Deadly Weapon Enhancements¹

For offenses committed after July 23, 1995

Use of this form: Only for offenses committed after July 23, 1995 that have a firearm or other deadly weapon finding.

CLASS A FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense ^{**} :	Subsequent ^{***} Deadly Weapon Offense:
Firearm 5 years	Firearm 10 years
Other Deadly Weapon 2 years	Other Deadly Weapon 4 years

CLASS B FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense ^{**} :	Subsequent ^{***} Deadly Weapon Offense:
Firearm 3 years	Firearm 6 years
Other Deadly Weapon 1 year	Other Deadly Weapon 2 years

CLASS C FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense ^{**} :	Subsequent ^{***} Deadly Weapon Offense:
Firearm 18 months	Firearm 3 years
Other Deadly Weapon 6 months	Other Deadly Weapon 1 year

* Excluded offenses: Possession of a Machine Gun, Possessing a Stolen Firearm, Drive-by Shooting, Theft of a Firearm, Unlawful Possession of a Firearm 1 and 2, Use of a Machine Gun in a felony, or any offense committed on or before July 23, 1995 with a deadly weapon finding.

** This enhancement is limited to offenses committed after July 23, 1995.

*** To be sentenced as a subsequent deadly weapon finding, the offense in history with a deadly weapon finding must also have been committed after July 23, 1995.

STANDARD RANGE CALCULATION

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	BASE STANDARD SENTENCE RANGE	
Rob 1°	IX	8	108	144
			LOW	HIGH
DEADLY WEAPON ENHANCEMENT			60	60
NOTE: The "base standard sentence range" is the appropriate standard sentence without the deadly weapon enhancement.			STANDARD RANGE	
			168	204
			LOW	HIGH

¹For anticipatory offenses with a deadly weapon finding, add the enhancement after reducing the standard sentence range by 25%.

00-109-0
COUNT IV

KIDNAPPING, SECOND DEGREE

(RCW 9A.40.030)

CLASS B FELONY

VIOLENT

(If sexual motivation finding/verdict, use form on page III-37)

I. OFFENDER SCORING (RCW 9.94A.360 (8))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY:

Enter number of serious violent and violent felony convictions 1 x 2 = 2
Enter number of nonviolent felony convictions 1 x 1 = 1

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions 3 x 2 = 6
Enter number of nonviolent felony dispositions 1 x 1/2 = 0.5

OTHER CURRENT OFFENSES (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other serious violent and violent felony convictions 3 x 2 = 6
Enter number of nonviolent felony convictions 1 x 1 = 1

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), + 1 = 1

Total the last column to get the Offender Score.
(Round down to the nearest whole number)

8

II. SENTENCE RANGE

A. OFFENDER SCORE:

STANDARD RANGE
(LEVEL V)

0	1	2	3	4	5	6	7	8	9 or more
6 - 12 months	12+ - 14 months	13 - 17 months	15 - 20 months	22 - 29 months	33 - 43 months	41 - 54 months	51 - 68 months	62 - 82 months	72 - 96 months

- B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).
C. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.
D. One year of community placement must be served following release from state prison (RCW 9.94A.120).

III. SENTENCING OPTIONS

- A. If sentence is one year or less: part or all of the sentence may be converted to partial confinement (RCW 9.94A.380).
B. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383).

00-1-109-0
COUNT

MALICIOUS MISCHIEF, SECOND DEGREE

(RCW 9A.48.080)

CLASS C FELONY

NONVIOLENT

(If sexual motivation finding/verdict, use form on page III-29)

I. OFFENDER SCORING (RCW 9.94A.360 (7))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY:

Enter number of felony convictions 1 x 1 = 1

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions x 1 = _____

Enter number of nonviolent felony dispositions x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other felony convictions 4 x 1 = 4

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), + 1 = _____

Total the last column to get the Offender Score
(Round down to the nearest whole number)

5

II. SENTENCE RANGE

A. OFFENDER SCORE:
STANDARD RANGE
(LEVEL I)

0	1	2	3	4	5	6	7	8	9 or more
0 - 60 days	0 - 90 days	2 - 5 months	2 - 6 months	3 - 8 months	4 - 12 months	12+ - 14 months	14 - 18 months	17 - 22 months	22 - 29 months

B. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.

III. SENTENCING OPTIONS

- A. If "First-time Offender" eligible: 0-90 days confinement and up to one year of community supervision. If treatment is ordered, the period of community supervision may include up to the period of treatment, but shall not exceed two years.
- B. If sentence is one year or less, one day of jail can be converted to one day of partial confinement or eight hours of community service (up to 240 hours) (RCW 9.94A.380).
- C. If sentence is one year or less: community supervision may be ordered for up to one year (RCW 9.94A.383).
- D. Partial confinement may be served in home detention (RCW 9.94A.030).
- E. If eligible, Work Ethic Camp may be recommended (RCW 9.94A.137).
- F. If Drug Offender Sentencing Alternative (DOSA) eligible: see DOSA form for alternative sentence on page III-20 (9.94A.120(6)).

APPENDIX “G”

Tumwater Police Department

Case Number: 99-3219-11

November 24, 1999

Officer Loren Summers

On 111699 at 0018 hours, Tumwater units were dispatched to a robbery call at Blockbuster Video. I arrived on scene after checking the area and contacted V2 Louise L. Rowan and V3 Stephanie A. McElhiney. Both victims are employees at the video store. Rowan was extremely flustered. She was crying and breathing heavily. McElhiney was very calm and quiet. It appeared she was trying to console Rowan.

Rowan stated she had finished shaking out the carpets, and securing the front entrance doors. She had walked back inside and was standing over her till when she heard the exit door open. She looked up, thinking it was another employee. Rowan said the next thing she saw was a man with a gun. Rowan hit the floor and started screaming for McElhiney to get down. Rowan said the man with the gun started yelling, "where is the tape?" Rowan heard one of the other suspects say that the tape was up in the office. The gunman then grabbed her by the back of the pants and pushed the gun in her back. Rowan was forced into the back office. The gunman demanded the key to unlock the casing around the VCR. Rowan told him it was in the safe. The gunman told Rowan to open the safe. Rowan explained that the safe was on a ten-minute time delay and she could not just open it. The gunman demanded the key to unlock the casing around the VCR. Rowan told him it was in the safe. The gunman told Rowan to open the safe. Rowan explained that the safe was on a ten-minute time delay and she could not just open it. The gunman kicked Rowan in the backside and said, "Bullshit Bitch." Rowan told him to read the warning on the front of the safe. The gunman told her to enter the code, and if she put in a code to call the police she was dead. The gunman then racked a round into the chamber. Rowan entered the code. The gunman then told her to get up. He took her back to the front of the store and made her empty out the tills into a plastic Safeway bag.

The gunman then took Rowan back to the office where they waited for the time delay on the safe. When the safe beeped, Rowan entered a second code. When the safe opened, she emptied all of the money from it and gave it to the gunman. She also gave him the key to the VCR case. The gunman handed the key to another suspect who opened the case and removed the videocassette from the recorder. The gunman then told Rowan to get up again. He escorted her to the bathroom where she met McElhiney. The suspects told them to stay in the bathroom for 5 minutes or they would die. Rowan recalls hearing them banging on the back door. The suspects started screaming for McElhiney to come out to unlock the door. Rowan told them she had the key. Rowan gave them the key and returned to the bathroom. Rowan said she heard them running southbound behind the building. Rowan and

McElhiney stayed in the bathroom for a few minutes. Rowan crawled out and called 911 from her cell phone, as she discovered all of the phone lines had been pulled from the wall.

Rowan said she was sure they knew the store. The suspects knew how to access the front door by using a small dent in the rubber molding, as the front exit doors do not have handles on the doors. Their immediate concern was the security camera. Rowan said the voice of the gunman sounded familiar, possibly a regular customer. Rowan described the gunman as a white male, 510-600, wearing a ski mask, light blue jeans, black sneakers with white toes. She described the gun to be a chrome small caliber handgun.

Rowan described the second suspect as a male, 507, wearing a dark blue hooded sweatshirt, ski mask; green and white quilted flannel and dingy white pants. Rowan described the third suspect as wearing a ski mask and a blue sweat jacket with a hood. Rowan said she did not see the fourth subject.

I contacted McElhiney.

McElhiney stated she was standing at the counter preparing to buy the new Austin Powers movie from Rowan. McElhiney said Rowan was turning to lock the door when they came running in. McElhiney said she did not know how many came running in. McElhiney said she thought it was a joke. She heard Rowan screaming for her to get down. McElhiney dropped to the floor. McElhiney said one of the suspects came over to her and put a gun in her face. He told her not to move or he would seriously "fuck her up." McElhiney complied. McElhiney said the suspect that put a gun in her face was a black male, with a small silver gun.

McElhiney said the black male left her there. She said she kept watching them run back and forth through the store, saying, "where's the other bitch?" McElhiney was taken into the mens bathroom and told to stay there. McElhiney said one suspect stayed in the doorway watching her. The suspect kept telling McElhiney that she would not be hurt.

McElhiney heard the suspect in the doorway tell the other suspects to grab a Sony Playstation and some games for him. McElhiney heard another voice say something about the safe delay.

A short time later, McElhiney reported Rowan was put in the bathroom with her. They were told to stay put for 5 minutes, turned out the lights and disappeared. McElhiney heard the suspects banging on the back door. Rowan left to get the door open then came back. They heard the suspects running southbound behind the building. McElhiney said they waited for a few minutes, then Rowan snuck out to get to a phone. Rowan returned with a cell phone and called the police.

McElhiney reported that all of the suspects were wearing plaid coats. She said the suspect that was guarding her was a white male, 600, and he was wearing knit gloves and dark pants.

McElhiney mentioned that one of the suspects was short.

.....
Lt. Mize photographed the scene and contacted Detective Davenport, who responded to the scene and conducted the investigation.

I observed debris in the store that ran from the front entry, all the way to the back of the store. It appeared to be beauty bark particles. On the front door, I observed a red/orange powdery substance in the area of the depressed rubber molding, on both the doors. Inside the store, I observed several movies had been knocked off the shelf and onto the floor. I confirmed with the employees that the store had been straightened prior to the robbery.

I asked Rowan who would know how to get in the doors after hours. She said only the employees.

FV Summers 5004

111999 / 0710

Tumwater Police Department

Case Number: 99-3219-11

SUPPLEMENTAL REPORT

January 20, 2000

Lieutenant Terry Davenport

Report: At approximately 0100 hours 11-16-99, I responded to 855 Trosper Road, the Blockbuster Video Store, for a reported armed robbery.

Upon arrival, Lieutenant Mize contacted me and briefed me on the robbery. At approximately 0005 hours, four subjects wearing ski type masks and gloves entered the video store. One of the subjects had a gun, and forced the assistant manager to the office area. Once in the office, the assistant manager was forced to open the safe and empty the contents into a plastic type bag. The assistant manager was then forced to open the video surveillance container. The surveillance tape was removed and later taken by the gunman. During this time, the other employee was being guarded by another subject and eventually taken to a bathroom located in the back of the store. Lieutenant Mize advised that some time during the robbery, the other subjects had cut all of the telephone lines. All of the cash registers had also been emptied. Lieutenant Mize said that prior to fleeing out a rear door, the subjects took numerous games/videos and a Sony brand play station. Lacey's K-9 had been requested and a track was followed from the rear door of Blockbuster Video to the south. I was advised that the K-9 lost the track after a short distance. See Lieutenant Mize's supplemental which is attached.

The video store is a single story cinder block type structure. It is connected to numerous other businesses in a strip mall type complex and is located at the north end of the complex. The front of the building faces to the east and has several large plate glass type windows that display various movie posters. The front doors face to the east and empty into a large parking lot. On the north side of the building are several more large plate glass windows that also display large movie type posters. The rear or West Side of the building is a solid wall with one emergency steel type door that can only be accessed from inside the business. There is a sidewalk to the west of the building and extends from the north to the south of the complex. On the west of the sidewalk, is an approximate eight foot wooden type fence that also extends from the north to the south of the complex.

I conducted an initial check of the exterior of the business and complex. I was unable to locate anything of evidentiary value.

I then contacted Officer Summers, who taped the interviews of the assistant manager, Louise Rowan and employee Stephanie McElhiney. Officer Summers had also photographed the crime scene. See Officer Summers report which is attached.

According to Ms. Rowan, she had taken the carpets from within the store outside to clean. Ms. Rowan advised she reentered the store, securing the doors behind her. Ms. Rowan returned to the cash register and was in the process of closing out the till. Ms. Rowan heard the door open and believed it was a co-worker or the boss. Ms. Rowan said she was on the employee side of the register and McElhiney was on the customer side of the counter. Ms. Rowan said she did not see anyone and then all of a sudden she saw a man standing there with a gun. Ms. Rowan said she immediately dropped to the floor and yelled to McElhiney to get down. Ms. Rowan stated the man with the gun yelled numerous times "where is the tape, you got to get the tape, shut off the tape". Ms. Rowan stated that someone yelled, "it's in the office". Ms. Rowan said the man with the gun yelled for her to get up. The subject grabbed Ms. Rowan by the back of the pants, pushed the gun into her back, and then forced her into the office. Ms. Rowan advised the subject then attempted to open the box that the video surveillance equipment is in. The subject then began demanding Ms. Rowan give him the key to open the surveillance box. Ms. Rowan advised she did not have the key, as it was in the safe. The subject then demanded Ms. Rowan open the safe. Ms. Rowan said she pushed the buttons for the safe to open however, the safe is on a ten-minute time delay. Ms. Rowan said she explained the time delay to the subject however he apparently did not believe her. The subject kicked Ms. Rowan in the buttocks and stated "bull shit bitch". Ms. Rowan again explained the safe procedures to the subject. The subject then stated "if you put in the code to call the cops, you're dead". Ms. Rowan said the subject pulled the slide back on the gun he had and then hit her in the back. Ms. Rowan said the subject told her to get up and walked her back to the area of the cash registers. Once at the cash registers, Ms. Rowan was told to empty the cash registers, which she complied. Ms. Rowan advised she then observed three other subjects in the store wearing ski-type masks and gloves. Ms. Rowan advised that after emptying out the cash registers, the subject with the gun directed her back to the office area. While enroute to the office area, Mr. Rowan yelled to McElhiney asking if she was okay. The subject with the gun again forced Ms. Rowan towards the office. Once inside the office, Ms. Rowan was forced to sit on the steps while the subject with the gun sat in a chair. Ms. Rowan stated that while the subject waited for the safe to open, he asked Ms. Rowan her name. When Ms. Rowan did not respond, the gunman placed the gun under her head and demanded to know her name. After telling the subject her name, the subject stated "I'm not going to hurt you as long as you do what I tell you to do". Ms. Rowan asked if McElhiney was okay. The subject with the gun stated she was okay and that nobody is hurting her. Ms. Rowan stated the safe then beeped indicating the second code could now be entered. Ms. Rowan entered the code and the safe was opened. Ms. Rowan advised she emptied the safe and put the money into the bag provided by the gunman. Ms. Rowan stated later that the gunman had taken two plastic bags with the Blockbuster logo on the outside of the bags as all of the money would not fit into the Safeway bag the gunman had brought. The subject then demanded the key to the video surveillance box. The key was handed to another subject at which time the subject with the gun grabbed Ms. Rowan's arm and directed her towards the bathroom. Ms. Rowan stated McElhiney was already in the bathroom and was being guarded by another subject. Ms. Rowan and McElhiney

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were told to stay in the bathroom for five minutes and not come out or else they would be killed. Ms. Rowan said she heard the subjects banging on the back emergency exit door. Ms. Rowan said they subjects began yelling for McElhiney to come out and help with the door. Ms. Rowan advised she went to the backdoor as she had the key. After unlocking the rear door, Ms. Rowan was directed back into the bathroom. Ms. Rowan heard the subjects exit the store and it sounded if they had ran south behind the building. Ms. Rowan advised that a few minutes later she left the bathroom and went to the front of the office to use the telephone. Ms. Rowan stated that all of the telephone lines had been cut. Ms. Rowan also advised that the gunman had torn the telephone line from the wall outlet in the office area. Ms. Rowan remembered she had a cell telephone and called 911. See Ms. Rowan's statement, which is attached.

According to Ms. McElhiney, she confirmed the initial sequence of events that Ms. Rowan had relayed. Ms. McElhiney said she did not see the subjects enter the store initially. Ms. McElhiney said she looked up and saw "these people" running in and heard Ms. Rowan yelling for her to get down. Ms. McElhiney said one of the subjects who she recognized as a black male, came up to her, put a silver in color gun in her face and said "don't move or I'll seriously fuck you up". Ms. McElhiney stated the black gunman then went to Ms. Rowan and took her towards the office. Ms. McElhiney said she was taken to the men's bathroom by one of the subjects and held there until after the robbery. Ms. McElhiney did say she heard one of the subjects say "take some play stations and take some more games and grab some more playstations for me". See Ms. McElhiney's statement, which is attached.

I then checked the office area. I observed what appeared to be small pieces of wood bits scattered around the floor of the office and on the chair. Upon checking it closer, it appeared to dry beauty bark. I also located a steel type plate on the floor with what appeared to be a muddy footprint on it. The plate was taken as evidence and later logged into the evidence room. I then checked the north side of the building where I had observed beauty bark earlier. The area is located on the north end of the building. It is approximately three feet wide and extends from the northeast corner of the building to the northwest corner. Upon checking this area, I observed an area at the northwest corner, and up against the building to have been disturbed. It appeared as though someone or something large had been lying down in the area. I also observed what appeared to be several footprints in the area. Due to the texture of the beauty bark, I was unable to make any positive identification of prints. The material in this area appeared to match the same type wood materials I found in the office area.

The scene was cleared and turned over to Ms. Rowan.

During the early morning of 11-16-99, Lieutenant Mize was requested to contact Charlotte Peaslee, the manager of the Tumwater Blockbuster Video store. When Ms. Peaslee came into work this morning she discovered the words "Fuck you" had been scratched into one of the end display cases within the store. Ms. Peaslee believes it was done last night during the robbery. Lieutenant Mize photographed the damage. See Lieutenant Mize's supplemental which is attached.

On 11-17-99 at approximately 1219 hours, I received a telephone call from a subject that wanted to remain anonymous. The subject stated Dominic Lapraim and Kahlil Edwards had robbed Blockbuster Video last night. The subject stated that Dominic had been bragging how they robbed the store, cut the telephone lines, and took the surveillance tape. I knew the information was accurate as I had not released any information nor was there a press release. The subject refused to provide his name for fear of retaliation from Edwards or Lapraim.

On 11-17-99 at approximately 1353 hours, I received a Crime Stoppers tip again, naming Lapraim and Edwards as the subjects that robbed Blockbuster Video. The caller stated Edwards and Lapraim had been planning to rob a Blockbuster Video store, but they did not know which one they were going to rob. The caller also stated Edwards and Lapraim had been bragging about the robbery and they got away with \$1,000.00.

On 11-19-99, I received a fax from Blockbuster Video Loss Prevention Officer. The fax listed the loss that the video store experienced. See fax attached.

On 11-19-99, Detective Glen Quantz of the Thurston County Sheriff's Department contacted me. Detective Quantz stated he had conducted an interview with Jarod Sims earlier in the day. According to Detective Quantz, Sims stated he was at Edwards's house on Trails End Drive. According to Sims, he overheard Edwards telling another subject how he (Edwards), had hit Blockbuster and "copped a video tape". Sims said that Edwards was bragging about how he went in Blockbuster with some guy that he knew that had worked there before, knew where everything was, knew what to do, and where the cameras were. Sims said that Edwards said something about throwing the gun into Offut Lake, but did not know where in the lake. Sims told Detective Quantz that he, Edwards, and another individual were on their way to Tacoma one-day after the robbery. Sims said that he saw a black in color ski type mask in the car. According to Sims, Edwards said that it was the ski mask he wore during the Blockbuster robbery. See Sims statement, which is attached.

On 12-04-99 at approximately 1342 hours, another Crime Stoppers tip was received concerning the Blockbuster robbery. The caller stated Jason Goudy was involved in the Tumwater Blockbuster Video robbery two to three weeks ago. I received this information on 12-30-99.

On 12-08-99, I received information from a confidential informant that Kahlil Edwards, Dominic Lapraim, Jason Goudy, and Justin Shea had committed the robbery at Blockbuster Video. The informant stated Edwards' girlfriend, Cassandra Bobier, had information about the robbery.

In late December 1999, I contacted Detective Keith Mercer of the Lacey Police Department. I knew that Detective Mercer was currently working a case involving Edwards, Lapraim, and Bobier. I made arrangements with Detective Mercer to assist with the interview of Bobier.

On 01-03-00 at approximately 1320 hours, Detective Mercer and I conducted an interview of Bobier at the Thurston County Sheriff's Department. I advised Bobier of her Miranda Warnings, which she stated she understood and waived.

Bobier gave a full confession as to her involvement and knowledge of the robbery. Bobier was present when Shea talked to Edwards about robbing the Blockbuster Video store. Bobier admitted to receiving a large amount of coins in a double Blockbuster Video bag, from Jason Goudy and then throwing the Blockbuster bags away in Edwards trash can on Trails End Drive. Bobier admitted to seeing two guns in Edwards's possession before the robbery. Bobier said Edwards admitted to robbing the video store along with Goudy, Shea, and Lapraim. Bobier said that Shea talked to her about his part in the robbery. Bobier also gave a detailed account of how Edwards threatened her if she ever revealed that he was involved in the robbery. See Bobier's statement attached.

On 01-04-00 at approximately 1735 hours, I along with Detective Mercer conducted another interview with Bobier at the Tumwater Police Department. I advised Bobier of her Miranda Warnings, which she stated she understood and waived.

Bobier detailed the involvement of Edwards, Lapraim, Goudy, and Shea in the Blockbuster Video robbery. Bobier also indicated that Edwards roommate; Shayla Archibeque had knowledge of the robbery. Bobier also provided the name of Donnie Walker. Walker is a friend of Edwards and may have information about the robbery.

On 01-06-00 I was contacted by Detective Glen Quantz of the Thurston County Sheriff's Office. Detective Quantz advised he had received information that Dominic Lapraim wanted to speak with me. Lapraim is currently confined at the Thurston County Jail awaiting trial on another matter.

On 01-06-00 at approximately 1515 hours, I conducted a taped interview with Donnie Walker. Donnie was advised of his Miranda warnings, which he stated he understood and waived. Walker stated that Edwards told him that he (Edwards) and Lapraim had robbed the video store. Walker also advised he was with Bobier when she had the money received from Goudy. See Walker's statement attached.

On 01-07-00 at approximately 1055 hours, Detective Quantz and I met with Lapraim. I advised Lapraim of his Miranda Warnings, which he stated he understood and waived. Lapraim stated on tape that he wanted to meet with me and he did not want his attorney present.

Lapraim confessed that he, Edwards, Goudy, and Shea had robbed the Tumwater Blockbuster Video Store. Lapraim stated he drove his car, parked it behind the business, and left it running while the four of them robbed the video store. Lapraim also stated that Edwards had the only gun and it was a silver automatic. Lapraim further stated that all of the participants knew Edwards had the gun with him. Lapraim also advised that Goudy and Shea, stole a bunch of video games. Lapraim also stated the video surveillance tape that had been taken during the robbery was burned at Edwards's residence, which he shared with Archibeque. Lapraim stated he had heard the masks and gun were thrown into Hewitt Lake, but was not positive of the information. Lapraim stated he had heard Goudy threw the items into the lake. See Lapraim's statement, which is attached.

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On 01-10-00 at approximately 1655 hours and 1805 hours, I conducted two taped interviews with Shayla Archibeque. Shayla was advised of her Miranda warnings, which she stated she understood and waived.

During the initial interview, Archibeque minimized her knowledge and involvement in the robbery. Archibeque indicated that Bobier, Donnie Walker, and an Airelle Hughes had knowledge of the robbery. Archibeque initially stated that she learned of the robbery several days later after several people had been talking about the robbery. Later Archibeque confessed her knowledge of the robbery and receiving some of the money from the robbery, which she placed into her bank account. Archibeque also stated that Edwards confessed to her that he, Lapraim, Goudy, and Shea had robbed the Blockbuster Video Store. See Archibeque's statement attached.

On 01-11-00 at approximately 1335 hours, I conducted a taped interview with Dawn MacKenzie. She was advised of her rights, which she stated she understood and waived.

MacKenzie was present when Edwards, Lapraim, Goudy, and Shea returned to Edwards's residence the night of the robbery. According to MacKenzie, the four subjects entered the apartment looking very stressed. MacKenzie stated they were carrying a black case similar to a camcorder case and carrying a plastic bag. MacKenzie stated she later saw the bag to contain a large amount of loose and rolled coins. MacKenzie said that Edwards had given the bag to Archibeque and told her it was payment for getting Edwards out of jail on a previous charge. MacKenzie stated that Hughes was also present while the money was being counted. MacKenzie stated she heard Edwards ask for a metal pan from the kitchen. MacKenzie said that the pan was used to burn videotape. See MacKenzie's statement attached.

On 01-12-00 at approximately 1510 hours, Michael Hancock contacted me. Mr. Hancock stated he was at Edwards's residence the night of the robbery. Hancock stated he was there when Edwards, Lapraim, Goudy, and Shea came in. Hancock stated all four subjects came in and Goudy was carrying the black plastic type brief case. According to Hancock, Edwards was carrying a bag that he later saw contain a large amount of coins. Hancock also stated he saw Edwards pull a small chrome automatic gun from his waistband and place the gun into a cupboard in the kitchen. Hancock advised that Archibeque was there when Edwards pulled the gun out. Hancock stated he was in the kitchen later when Edwards, Lapraim, Goudy, and Shea were outside having a cigarette. Hancock overheard one of them say something about Blockbuster and then heard another one say something about a combination or that someone knew the combination. See Hancock's statement attached.

On 01-12-00 at approximately 1555 hours, I conducted a taped interview with Airelle Hughes. Ms. Hughes was advised of her Miranda warnings, which she stated she understood and waived.

Hughes denied any knowledge of the robbery other than hearing people talking about it. Hughes denied seeing any money or observing anyone counting money. Hughes did say that she saw a black in color gun in Edwards and Archibeque's

apartment, however that was a long time ago. Hughes denied having any other knowledge about the robbery. See Hughes statement attached.

On 01-13-00 at approximately 1155 hours, Hughes came into the police department and advised she wanted to provide another statement to me. Hughes stated she had not been totally truthful about her knowledge of the robbery. I advised Hughes of her Miranda warnings, which she stated she understood and waived.

Hughes stated that she left Edwards's apartment before Edwards, Goudy, Lapraim, and Shea returned there after midnight, which was the night of the robbery. Hughes stated she had spoken to Edwards on the telephone last night, and Edwards had confirmed this. According to Hughes, she stayed home from school on 11-17-99, the day after the robbery. Hughes went to Edwards and Archibeque's apartment and observed a large amount of loose change and bills on a counter. Hughes did say the money was in a brown paper bag. Hughes advised Edwards was not there, however Archibeque was. According To Hughes, she made a comment to Archibeque about now having the rent money and Archibeque replying that yes, she did.

Hughes stated she knew that Edwards, Lapraim, Goudy, and Shea had gotten some money, but according to Hughes, she did not know how or from where. Hughes advised that evening, Edwards, Lapraim, Goudy, and Shea were at Edwards and Archibeque's apartment pacing back and forth, acting very nervous. Hughes said that someone, who she does not remember, say they are nervous because they robbed Blockbuster Video. Hughes said that Edwards never told her that he robbed the video store, however Edwards did tell her that he did something really, really bad. Hughes continued to deny any other knowledge of the robbery or being involved in counting any of the money. See Hughes statement attached.

On 01-13-00 at approximately 1526 hours, I conducted a taped interview with Kelly Plamondon. Ms. Plamondon was Edwards's parole/probation officer when Edwards was a juvenile. Ms. Plamondon has left the corrections fields, however she continued to maintain a relationship with Edwards. Because of this relationship, Plamondon is also an acquaintance of Hughes. Plamondon relayed her information as to her knowledge of the robbery and talking with Edwards on the telephone. Plamondon also advised of her conversation with Hughes in which Hughes admitted her suspicions that Edwards was involved in the robbery of the video store. Plamondon also stated that Hughes had said she helped Archibeque count the money at Archibeque and Edwards' apartment on November 17, 1999. See Plamondon's statement attached.

On 01-18-00, I was contacted by Detective Quantz and advised Lapraim wanted to speak with me. At approximately 1027 hours, I conducted a taped interview with Lapraim. Lapraim was advised of his Miranda warnings, which he stated he understood and waived. Lapraim stated that he and Goudy had taken the playstation and threw it into Pattison Lake. Lapraim advised that before throwing the case into the lake, several masks and gloves that were used in the robbery had been placed into the case. Lapraim also advised that Goudy had said he (Goudy) had thrown the gun that was used in the robbery into Munn Lake. Lapraim advised he believed the gun had been thrown into the lake at the public access. See Lapraim's statement

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attached. Laprain voluntarily went with TCSO Detectives Quantz, Dunn, and myself to Pattison Lake. Laprain showed us the areas in which he and Goudy had thrown the case containing the play station, game cartridge, masks, and gloves.

Detective Dunn advised he would conduct a search of the area on Thursday with the assistance of his dive team.

On 01-20-00, Goudy and Shea appeared in Tumwater Municipal Court on unrelated charges.

Shea and Goudy were placed under arrest, advised of their Miranda warnings on tape, and invoked. Shea and Goudy were transported to the TCSO jail and booked.

I also had the charges placed on Edwards and Laprain, who are currently in custody at the TCSO jail on unrelated charges.

TUMWATER POLICE DEPARTMENT
Tumwater, Washington

The Case Number Is: 99-3219

Today's Date Is: 1-7 of 00

The Time Is: 1055 Hours

The Place Is: Thurston County Sheriff's Office

I am Terry Davenport of the Tumwater Police Department. This is a statement of Dominic, D-o-m-i-n-i-c G. Lapraim, L-a-p-r-a-i-m. Dominic's date of birth is 3-13 of '81 and he resides at 7506 50th Avenue, Olympia 98513. Dominic's home phone is 360-413-9706.

Q: Dominic, do you understand this statement is being recorded?

A: Yes sir.

Q: Is this with your consent?

A: Yes.

Q: You have the right to remain silent. Anything you say can be used against you in a court of law. You have the right at this time to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish. You can decide at any time to exercise these rights and not answer any questions or make any statements. Do you understand each of the rights I have explained to you?

A: Yes.

Q: Having these rights in mind do you wish to talk to us now?

A: Yes.

Q: For the record, also present is Detective Glen Quantz of the Thurston County Sheriff's Office. Dominic do you have an attorney?

A: Yes.

Q: And who is that attorney?

A: Harold Norwood.

Q: Okay. At this time do you want Attorney Norwood present?

A: No sir.

Q: Okay. It's our understanding that you requested to talk to us, is that correct?

A: Yes.

Q: And you are here freely and voluntarily?

A: Yes.

Q: Okay. What is it you with to talk to us about?

A: A robbery that happened.

Q: Okay. What robbery was that?

A: A Tumwater robbery.

Q: Okay, where in Tumwater?

A: By Albertsons.

Q: Okay, what was robbed?

A: A video store.

Q: The name of the video store?

A: Blockbusters.

Q: When did this happen?

A: I'm not sure of the day. About a month and a half ago.

Q: And how do you know about this robbery?

A: Ahm, cause I was involved.

Q: What was your involvement.

A: My involvement was just being there, more of a lookout.

Q: Okay, what exactly did you do?

A: Ahm, I calmed the lady down that was in the room. And I, I just told her to, ahm, to stay calm, nothing's going to happen to you and I said my friend is going nuts.

Q: Who was involved in the robbery?

A: Kahlil Edwards, Justin Shea and Jason Goudy.

Q: Okay. Let's go back to the beginning. How was this robbery planned?

A: Ahm, I'm not sure. For me it was, ah, it was ah, done you know, spur of the moment. If I would have thought about it I probably wouldn't have done it. And at the time I was high on alcohol.

Q: Why don't you tell me how you became involved in it. You said it was a spur of the moment.

A: Well, there was something said about it before. I thought, I, I thought it probably as a joke. I didn't, I didn't think they were serious. I mean it wouldn't be an everyday thing for me, you know.

Q: Ok. Who said something before?

A: Kahlil.

Q: And when did this happen?

A: Ahm, a week before it actually happened.

Q: And who was, and who was present during that time?

A: Ahm, me and Kahlil. Cause we were just drinking, playing cards. I don't know what we were doing.

Q: And where was this discussion at?

A: Ahm, his house I believe.

Q: Was anybody else there?

A: There could have been. I don't remember.

Q: And the gist of the conversation was what?

A: He asked me if I wanted to rob Blockbusters and I, I just kind of laughed. I didn't give him an answer right at that point.

Q: Okay. Did he say who else was going to be involved in this robbery?

A: No.

Q: Did he say how it was going to happen?

A: No.

Q: Ok. When was it decided how the robbery was going to happen?

A: Ahm, I don't know. I never. It wasn't, it was a spur of the moment thing, you know, just like, they came and got me and they were like, Do you want to rob the store?

Q: Okay, and who are they?

A: Justin Shea and Kahlil and Jason Goudy.

Q: Okay. And where were you?

A: Where was I? I was at home.

Q: Okay. On 50th?

A: Uh huh.

Q: Who was driving?

A: I was.

Q: No, who was driving when they went over to your house?

A: Ahm, Justin. He was driving.

Q: Okay, so when they came over to your house what was said?

A: It was more like, Let's go. And then we talked on the way there.

Q: Okay. What was the conversation on your way there?

A: It was, ah, they, they were saying, ah, how, how, how they were going to do it and, you know, where they were going to do it.

Q: Okay. I need you to be specific and when they say they, who said what and who are they?

A: Kahlil and Justin Shea were telling me and Jason Goudy that, ahm, how it was going to happen.

Q: Okay, how was it going to happen?

A: They said that we'd go and possibly through the back door and, ah, ah, you know, rout up the ladies and get them in the room and, ahm, take one of them into the office and have them unlock the safe and get the videos but, I mean, he didn't really know how it was going to happen, nobody did.

Q: Who had the guns?

A: There was only one gun.

Q: And who had that?

A: Kahlil Edwards.

Q: Okay. What type of gun did he have?

A: I think it was a 9 millimeter.

Q: Color?

A: Silver.

Q: Do you know where he got it from?

A: Ah, I believe it was, he got it from a person. Ahm, I'm not sure of the name. It was just short ?? (unintelligible).

Q: I need to know his name.

A: Joseph Kirk I think, Joseph Kirk, I'm pretty sure.

Q: Are you positive or are you pretty sure?

A: I'm pretty sure.

Q: Ok. So then who drove from your house to Blockbuster?

A: I did.

Q: Ok. And what were you driving?

A: A beat up 4-door Plymouth wagon.

Q: Okay. And where was that vehicle at?

A: It was at my house.

Q: I mean, when you went to the robbery where was it? Where did you put it?

A: Oh, it was behind the, behind Blockbusters.

Q: Okay. Where behind Blockbuster?

A: It was, there's, ahm, right behind it, there was like woods and then there was like a, a driveway for the apartments back there.

Q: Uh huh.

A: It's an old person place and it was right there. Beside the fence.

Q: Okay. So you said that you went through the back door?

A: No. We went through the front door.

Q: Okay. Tell me what happened at that point.

A: We went, we went to the ba, or around the back and to the side and there was a bunch of cars and, ah, a car was coming and we ducked and, ah, we went to the front door and it was locked but, you know, and I was, I was starting to retreat cause I thought it was, you know, not going to happen. And, ahm, I heard em yelling and ah I walk around the corner and they're already in there and ah both the ladies had their hands up and he was telling them to put them down.

Q: Who is he?

A: Kahlil.

Q: Okay.

A: And then, ah, one of them brought, ahm, a lady into a room that was on the side.

Q: And who was that?

A: It was, it was Justin Shea, one of the two, Justin Shea and Kahlil were the only two that were in there and then I went, me and Jason Goudy cause we, cause we were outside we didn't think they were going to get into that, but I guess Justin Shea knew a way cause he worked there before. We were on the side of the door for like managers if they locked themselves out cause, you know, ah, there's like a little thing you can pull it open by the side of the door on the rubber.

Q: Okay.

A: And, ah, he got in there and

Q: Who's he?

A: Justin Shea, he was the one who got in there and Kahlil was the one with the gun. But, ahm and ah I just sat there and like the, the lady that was in the room when I told him, I was just like, Calm down nothing's going to happen to you. She asked me if, if her friend was going to get hurt and I was like, No. I was like, My friend is crazy, I mean, ahm, I just told her.

Q: Which lady did you have?

A: I didn't have her, I mean, she was just standing

Q: And where was this at?

A: It was ah, she was standing in the room.

Q: In which room?

A: The room that was in there. You go in and it's on the left hand side. It was like right there and then it went to two rooms. I think one of them was like a locker room.

Q: Okay. And can you describe the lady that you had?

A: That I was talking to?

Q: Okay. And then what?

A: And then, ahm we tried to go out the back door and it didn't work and ahm we tried to get or Kahlil tried to get the lady to help open the door but they, she couldn't get it open so we put her back in the room and then ahm we went out the front door.

Q: And then? Ok.

A: We went to the car and then we, we got in the car and drove off and took a left and went to Jason Goudy's house.

Q: Okay. After you went out the front door, why don't you tell me the route that you took.

A: Through the front door we took a left, ran down the side of the building and ran past the fence, ahm, to the apartments there, to the car. Got in the car, drove out take, took a left on the road and we went to Jason's house.

Q: Okay. Were you wearing any kind of disguises or anything?

A: Masks.

Q: What kind of mask?

A: They weren't masks, ski masks.

Q: Ok. And the colors?

A: Ahm, I don't remember. Probably black and gray, blue.

Q: Okay. Can you describe the mask a little bit more and we'll kind of, you know, when you talk about ski mask, what is your?.

A: Huh?

Q: When you talk about a ski mask, what is your description of a ski mask?

A: Holes in the eyes and hole in the lip.

Q: Okay. So then when you got to Jason Goudy's house, what took place then?

A: Ah we had ahm ahm I guess Kahlil somewhere gave Jason the money and ah there was like there was a hundred, twelve hundred dollars there and ah, they split it up.

Q: Who's they?

A: Jason Goudy, Justin Shea and ah Kahlil Edwards.

Q: And how much did you get?

A: Ah, about two hundred fifty bucks, almost three hundred bucks.

Q: Okay. And then what took place?

A: Then I went home and everybody, we all just kind of split up.

Q: Okay. Were any coins or anything taken from the, the store?

A: Coins, what do you mean?

Q: Coins, you know. Quarters, nickels, dimes?

A: Yeah there was a bunch of them.

Q: Okay. How did you carry those out?

A: In the same bag where the money was.

Q: And what kind of bag is that?

A: Safeway plastic bag.

Q: It was a Safeway bag?

A: I have no idea. It was just a plastic bag.

Q: Where did the bag come from?

A: Um, I have no idea.

Q: Did they?

A: Probably Jason's house.

Q: Did you bring the bags into?

A: I didn't.

Q: Who did?

A: Huh?

Q: Who brought the bags?

A: I don't know. I wasn't paying attention.

Q: Okay. Was anybody else involved in this?

A: No.

Q: Okay. How about Cassie Bobier's involvement?

A: No, she wasn't involved at all.

Q: Was she around when you were discussing the, the robbery..

A: No.

Q: at Kahlil's house?

A: No sir.

Q: Never?

A: Never.

Q: Did you ever talk to Cassie about it?

A: No. We never talked to anybody about it. I never did anyway.

Q: Well I have a confession from her that you, Kahlil and her had talked about it.

A: I don't, I don't recall ever talking to Cassie about it. If I did I would tell you.

Q: Okay. Anybody else that was over at Kahlil's house while you were talking about it? Shayla?

A: There were people there, but when?

Q: That's what I'm asking you.

A: When we were talking about it.

Q: After the robbery.

A: After the robbery. Ahm, the only people that ever heard it from me was my ahm, my friends Tom and Jared. They heard about it.

Q: Tom and Jerry?

A: Tom and I talked about, Tom Eisenberg and Jared Sims.

Q: Okay.

A: And Tom?

Q: Okay.

A: Ahm, and my mouth is dry.

DQ: I'm going to get him some water.

DD: All right.

A: I don't remember. I remember there was people around in the meantime but after the robbery, it'd probably be a couple days after that.

Q: But you don't recall who was there?

A: No. Cause there's always a bunch of people over there, drinking you know and hanging out.

Q: Uh huh. So after Jason Goudy's, you all took your money, your share of the money and you all went your separate ways is that correct?

A: Yes sir.

Q: About what time was that.

A: It was night time.

Q: Do you know about what time that was?

A: Ah, it was right after Blockbuster closed this all happened.

Q: Okay. What happened to the masks and guns, or gun?

A: Ahm, I believe the gun thrown into the lake and everything else got thrown into the lake.

Q: Which lake?

A: Hewitt Lake, I believe.

Q: The gun was in Hewitt Lake? Who threw the gun in there?

A: Ahm, I ?? ahm, Jason because I think he heard about the cops went over to, to Kahlil's house and ahm Shayla didn't let them in and he got scared and went over there and threw away all, all that Kahlil had.

Q: Okay so the masks and guns are in Hewitt Lake?

A: Yes.

Q: Do you know where in the lake?

A: I wasn't there when they were thrown. I just, that's what I heard.

Q: From?

A: Jason Goudy.

Q: Jason Goudy told you that's where he threw them?

A: Yes.

Q: Okay. Detective Quantz do you have anything that you'd like to ask?

DQ: I missed the part about the guns with Jason.

DD: The guns were thrown into Hewitt Lake by Jason Goudy.

DQ: Do you know who was with Jason when he did it?

A: I have, no I don't, ahm I was only told about that because he, he got scared and found out about, about you guys were, or the cops were going over there and, and ah he'd just gone over over there and got it, you know, broke into his room.

DQ: Okay. One gun is all you saw?

A: There was only one gun and I know that for a fact. It was at Kahlil Edward's that was used.

DD: Okay. How about the shoes that you were wearing?

A: The shoes?

DD: What happened to those?

A: I've still got them.

DD: How about the others?

A: I don't know.

DQ: Do you have other stuff, um, that you know Kahlil's been involved in?

A: Yes, I do.

DQ: I don't have any other questions about this. Do you want to continue on and ?

DD: Do you have any other information about the robbery which you have not revealed to us?

A: No. Not that I can remember, just kinda told you the whole thing.

Q: Okay. Did you got to eastern Washington with Kahlil?

A: No, sir.

Q: Okay. Did you know about that trip?

A: Ahm, I heard about it.

Q: Ok. How about the video surveillance tape that was stolen. Where is that at?

A: Ah, ahm, that got burned.

Q: By?

A: Kahlil.

Q: And when did that happen?

A: Ahm, actually it was like, cause we went, I, I would have to check my ??? after everybody else cause we went to Jason's house first and then we went over to Kahlil's house. Kahlil burnt the tape there.

Q: So you were there when he burnt the tape?

A: Yes.

Q: Who else was there when he was burning the tape?

A: Ah, Shayla but nobody knew what the tape was, you know, nobody knew what the tape was or why he was burning it.

Q: Shayla didn't know about the robbery?

A: No.

Q: Why would you say she did?

A: She probably could have by Kahlil but ah, in my point of view and from what I knew she did not know.

Q: Uh huh.

A: Because I was getting that, I was really kind of checking it out after I knew. Cause from the way I'm looking at it everybody just kind of pointing the finger at me. And I was the one who knew the least, you know. I'm Kahlil like did the, the assault thing. I'm got dragged into that. I mean, Kahlil's just a fucking, he's an idiot. He scares me, he, you know, he's he's intimidating, he ah he's crazy, you know.

Q: How is he intimidating?

A: He got a lot of friends, I mean he ah he doesn't try and blackmail you you know but it's just like how it know, you know. It's hard to explain.

Q: Well try cause we don't know.

A: Yeah I, I understand. It's kind of like he bosses, he bosses me around, you know. He he just, he kind of acts like he's an authority and, you know.

Q: Uh huh.

A: He's not you know. Ah, and that bothers me.

Q: Has he ever threatened you?

A: Told me to get the fuck off the car before, I mean, I had a girl with me you know and ah I had a girl with me and ah we were, we were hanging out and we went to his house and I don't know, all of a sudden, he got all pissed off, he wasn't talking at all, you know. His girl was all pissed at me, too, she, I don't, he took me to my house and told me to get the fuck off the car. And then he took, took off with the girl. I was like what the hell? And I went to my house, you know.

Q: Have you ever seen any other guns around Kahlil's place?

A: Yeah, I've seen another gun there.

Q: What kind of gun was that?

A: I don't know. I'm not, it was a bigger gun.

Q: What did it look like?

A: A handgun, black.

Q: Revolver, automatic?

A: Automatic.

Q: Okay.

A: It was a semi-automatic, ah, I don't know

Q: Did he say where he got it from?

A: No. From, I know of a couple ahm, couple robberies, or not a couple robberies but a couple burglaries.

DQ: Lets's stay with, uh, the robbery for a second and a little bit longer thew e can talk about other things. Um, on the robbery you said one gun, everybody in the

car knew that Kahlil had the gun? So if Jason Goudy said to me hey I didn't know that Kahlil had a gun, Jason's lying?

A: Uh huh.

DQ: Everybody knew Kahlil had that gun? Right?

A: Yes.

DQ: Justin knew it?

A: They knew it.

Q: Jason knew it?

A: Yeah.

Q: And Kahlil had it?

A: Yes.

DD: And how did they know?

A: Cause we all seen him with it.

DQ: And in the car on the way over, in your car on the way over, he pulled it out and and double checked he had it or anything like that or make sure everybody saw it or?

A: I was driving. I wasn't paying any attention to that.

DQ: Where was Kahlil at? Front seat? See if you can remember. I just want to know, When was the last time, I want to know how everybody knew that he had it.

A: Because before we went he showed it, you know.

DQ: So before you guys went to it

A: Yeah.

DQ: that night when you guys started to leave to go do it he had it and displayed it, everybody saw it?

A: Yes.

DQ: Anybody make any comments or anything about it like what are you going to do with that or anything like that? I mean anybody make a big deal about it or ?

A: I was just kind of stunned by it. I didn't

DQ: But everybody in the group knew that Kahlil was armed with that firearm.

A: Yes sir.

DD: And that was at your house that he showed everybody the gun?

A: Ahm, yeah. Do you mind if I back track. Ahm I think we all went from Shayla's house in my car. We all met at Shayla's house.

DD: Okay. We need to back up here Dominic cause you said it was kind of a spur of the moment.

A: It was a spur of the moment.

DD: And where were you?

A: I was at my house when it happened. See, I want to, I'm trying to get all this as straight as I can, that's ??? ahm, cause I don't want somebody else to come in here and tell you you know how ???

DQ: We you don't want this to happen either.

A: Exactly, so I'm trying to say it straight now. So ahm, we all met at, Ok, we all met at ah, ah Kahlil's house, I'm sure of that, cause Shayla was there.

DD: Okay. And why did you go there?

A: Because it was closest to everybody in the thing.

DD: Okay. Did he call you or was something that was preplanned?

A: He called me, he called me and he was like come over and I think it was preplanned by them but not by me. I didn't know. It was just like come on let's go.

DD: Okay. So you went to Kahlil's house?

A: Yeah I got there and they were like

DD: Who were they?

A: Kahlil Edwards, Jason Goudy and Justin Shea..

DD: Okay.

A: Ahm, ahm they that's when they gave us masks and all that and

DD: Who gave the masks out?

A: Kahlil Edwards and ahm he gave us the masks and that's where we seen the gun and everything was just kind of discussed and it was discussed on the way there too, and I think that there's a debate on either we take his truck or my car but we ended up my car because his car wasn't running very good.

DD: Okay. Anything else?

A: Okay, not that I can think of.

DD: Who was at the house when the four of you were discussing?

A: Kahlil and Shayla.

DD: Okay. Were they there?

A: No, we were in the room by ourselves.

DD: Ok. Which room?

A: Huh? In Kahlil's room where he was sleeping.

DD: Okay. And where was Ariel and Shayla?

A: Up in Shayla's room.

DD: Okay. Did the four of you ever meet in Kahlil's room again to discuss the robbery after it happened?

A: No, we just did that at Jason Goudy's like ??? at the very ??????

DD: But you never met in Kahlil's room again to discuss an alibi or talk about the robbery?

A: Like a week later, it was probably like a week later, yeah.

DD: Okay. Why don't you tell me about that. What I need Dominic, is I need every detail because that shows me, you know, that you're, that you're being honest with me.

A: I'm trying to give you as much as I can.

DD: Okay.

A: I'm not trying to be difficult or a prick.

DD: I understand that.

A: I mean, you know, it might come out like I'm not ?? I didn't talk about it much cause I was scared. Kahlil and Justin Shea. Justin Shea he just kind of lived around his money and you know I can tell he was a bragger and Kahlil has a big mouth and he was bragging and ah he was tossing the money like he was, you know, you know, being cool, or whatever. And Jason Goudy and me were more cautious and scared.

DD: Okay. You ever brag to anybody about doing the robbery?

A: No. I, it's not something to brag about.

DD: Have you ever mentioned this to anybody?

A: I, I told I told Tom and Jared.

DD: No one else?

A: No.

DD: That's interesting because I received a Crime Stoppers tip the following day and you were the first one that was mentioned because you were bragging about doing the robbery.

A: Well, check this out, there's a lot of people around here that don't like me. Ok, um, this is what I think happened. Justin Shea has a friend ahm, ah, Ted, who's best fre, or or who who I don't want to say best friends but real good friends with T.J. Pratt You ever heard about T.J. Pratt? Me and him kind of have a conflict before, conflict of interest. I asked him you know I don't know he was just kind of saying I was dah and dah dah dah and ah with Justin Shea he was bragging a lot and I knew this, okay. I figured that that ah Justin Shea said something to Ted

and Ted said something to T.J. Pratt and T.J. Pratt doesn't like me and Kahlil at all just because um, ah, ah, ah Kahlil also told him about me and, me and T.J. not liking each other and he just got all involved, you know oh I'm going to beat him up and got in his face and all that and T.J. Pratt heard about this I think him and a couple of his friends called you know saying me and, Kahlil had, you know. And ah trying to get us in trouble.

DD: Uh huh. Well the information that I got, uh, wasn't from any of them. And it is from somebody who's a reliable source and the specifics that this person gave me the only person that would know would have been the people who did the robbery and you were boasting that you had done this robbery.

A: I never boasted. I swear on my mom's, I swear on my mom's and my parents.

DD: Okay. Who did the carving in the counter top at the store?

A: In the counter top?

DD: Yeah. That's you?

A: I don't know. I stayed in one area.

DD: Did we talk about that?

A: Huh uh.

DD: Who did it then?

A: Did anything?

DD: Right. If you didn't do it, and Kahlil was with you?

A: If I didn't do it, then it could have been, Kahlil was in the office. Where was it at the marking?

DD: That's what I'm asking you. I wasn't there. I'm asking you.

A: Um, well Kahlil was in the office. It could have been Justin Shea or, or Jason or Kahlil, but I stayed, I didn't..

DQ: None of those guys were in your sight all the time?

A: No.

DQ: Ok. So, it had to be one of the other three. You didn't know about it.

A: Yeah.

DD: Do you know if there were any, uh, Blockbuster, you know, there were the plastic, plastic bags that you used to take the money out?

A: No, I don't think it was. I think it was just a paper bag, or something.

DD: When Kahlil was arrested, did anyone contact you to try and get him out of jail?

A: Um, when was this?

DD: This was when, not too long after the robbery.

A: I was, I was arrested before anyone.

DD: No, I'm talking about, not on the Lacey incident but on the one where Kahlil was arrested for the, uh, he came to court on the, uh, assault domestic violence issue.

A: He always trying to get me to bail him out. I mean, I almost, I owe a thousand one hundred dollars because of him. You know, I'm in jail because of him. I hate him. You know, and now he treats me like a shit, like a piece of shit. Now I'm in here. And the only reason why I'm in here is because of him. You know, I raised my family for a year and a half and we didn't have not money.

DD: Ok.

A: I didn't have..

DD: Did he ask about your car and say, hey, you know, we need your vehicle title or something to use for collateral?

A: Yeah, they tried to get my title.

DD: Who's they?

A: Uh, I think it was Donnie Walker. He asked me for my title. I said I didn't have it. My mom did.

DD: Ok. Anybody else?

A: No.

DD: Do you know who was with Donnie?

A: No, I don't. I believe it was just Shayla and Ariel.

DD: Ok.

A: (unintelligible)

DD: Do you have anything else you'd like to add to your statement with regards to the robbery?

A: If I could think of something that I didn't, I would tell you.

DD: Ok.

DQ: If you think of something else at a later time or something like that or something's clear to you, you can, you can send it by a kite and have it sent to, um, Lieutenant Davenport from Tumwater, or to me, and I can get a hold of him for you, you know, something like that and ?? Do you want to tell us about the, uh, Lacey situation and let's clear that thing up?

DD: Ok. Before we get into that, um, have any threats or promises been made to you since we started the interview concerning the robbery?

A: No, sir.

DD: At any time during the statement have you asked the taping be stopped?

A: No, sir.

DD: Now we'll shift gears and..

DQ: Yeah, just, um, I-I don't know a lot about the Lacey, but, and I don't know where they, uh

A: Can we take a break?

DQ: you want to go off the tape a little bit so?

DD: Dominic has requested the statement and tape stop so he can take a break. We're ending at 11:30. And today is still 1-7 of '00.

APPENDIX “H”

APPENDIX “H”

Shea’s potential sentence ranges, based upon minimum convictions for Burglary in the First Degree, and two counts of Kidnapping in the First Degree, combined with Deadly Weapon – Firearm Enhancement findings/verdicts:

Burglary in the First Degree:	41 – 54 months	(served <u>concurrent</u> w/ other two kidnapping charges)
Kidnapping in the First Degree (1 count):	77 – 102 months	(served <u>concurrent</u> w/ burglary offenses but <u>consecutively</u> to other kidnapping charge)
Kidnapping in the First Degree (2nd count):	51 – 68 months	(served <u>concurrent</u> w/ burglary offenses but <u>consecutively</u> to other kidnapping charge)
Plus: 5-yr. firearm enhancement on Burg. 1	+ 60 months	(served <u>consecutively</u> to all other sentences and enhancements)
Plus: 5-yr. firearm enhancement on Kidnap. 1	+ 60 months	(served <u>consecutively</u> to all other sentences and enhancements)
Plus: 5-yr. firearm enhancement on Kidnap. 1	+ 60 months	(served <u>consecutively</u> to all other sentences and enhancements)

Total sentence range pursuant to convictions for Burglary in the First Degree, and two counts of Kidnapping in the First Degree, combined with Deadly Weapon – Firearm Enhancement findings/verdicts: 308 – 350 months

Calculation notes/considerations:

Pursuant to former RCW 9.94A.400(1)(b) [now recodified in RCW 9.94A.589(2) pursuant to Laws of Washington 2001, Ch. 10, § 6],

(b) Whenever a person is convicted of two or more serious violent offenses, as defined in RCW 9.94A.030, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. ***All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.***

* * * * *

Potential minimum sentence based on prior criminal history (theft 1°) and other current offenses - of 1 count of burglary 1° and 1 count of kidnapping 1° (for different victim)

KIDNAPPING, FIRST DEGREE

(RCW 9A.40.020)

CLASS A FELONY

SERIOUS VIOLENT

I. OFFENDER SCORING (RCW 9.94A.360 (9))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY:

Enter number of serious violent felony convictions x 3 = _____
 Enter number of violent felony convictions x 2 = _____
 Enter number of nonviolent felony convictions *(Theft 1°)* x 1 = *1*

JUVENILE HISTORY:

Enter number of serious violent felony dispositions x 3 = _____
 Enter number of violent felony dispositions x 2 = _____
 Enter number of nonviolent felony dispositions x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of violent felony convictions *Burglary 1° + Kidnapping 1°* x 2 = *4*
 Enter number of nonviolent felony convictions x 1 = _____

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), + 1 = _____

Total the last column to get the **Offender Score**
 (Round down to the nearest whole number)

5

II. SENTENCE RANGE

A. OFFENDER SCORE:

STANDARD RANGE
 (LEVEL X)

0	1	2	3	4	5	6	7	8	9 or more
51 - 68 months	57 - 75 months	62 - 82 months	67 - 89 months	72 - 96 months	77 - 102 months	98 - 130 months	108 - 144 months	129 - 171 months	149 - 198 months

B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).

C. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.

D. Following release from state prison, the offender must serve community placement of 24 months, or up to the period of earned early release awarded, whichever is longer (RCW 9.94A.120).

*Potential minimum
sentence based on
prior criminal history
(Theft 1°) and "other
current offenses" of
2 counts of
kidnapping 1° Degree*

BURGLARY, FIRST DEGREE

(RCW 9A.52.020)

CLASS A FELONY

BURGLARY 1 (VIOLENT)

(If sexual motivation finding/verdict, use form on page III-22)

I. OFFENDER SCORING (RCW 9.94A.360 (10))

In the case of multiple prior convictions for offenses committed before July 1, 1986, for purposes of computing the offender score, count all adult convictions served concurrently as one offense and all juvenile convictions entered on the same date as one offense (RCW 9.94A.360).

ADULT HISTORY:

Enter number of serious violent and violent felony convictions x 2 = _____
 Enter number of Burglary 2 or Residential Burglary convictions x 2 = _____
 Enter number of other nonviolent felony convictions *(Theft 1°)* 1 x 1 = 1

JUVENILE HISTORY:

Enter number of serious violent and violent felony dispositions x 2 = _____
 Enter number of Burglary 2 or Residential Burglary dispositions x 1 = _____
 Enter number of other nonviolent felony dispositions x 1/2 = _____

OTHER CURRENT OFFENSES: (Other current offenses which do not encompass the same conduct count in offender score)

Enter number of other serious violent and violent felony convictions *kidnapping 1° (x2)* 2 x 2 = 4
 Enter number of Burglary 2 or Residential Burglary convictions x 2 = _____
 Enter number of other nonviolent felony convictions x 1 = _____

STATUS: Was the offender on community placement on the date the current offense was committed? (if yes), + 1 = _____

Total the last column to get the **Offender Score**
 (Round down to the nearest whole number)

5

II. SENTENCE RANGE

A. OFFENDER SCORE:

STANDARD RANGE
 (LEVEL VII)

0	1	2	3	4	5	6	7	8	9 or more
15 - 20 months	21 - 27 months	26 - 34 months	31 - 41 months	36 - 48 months	41 - 54 months	57 - 75 months	67 - 89 months	77 - 102 months	87 - 116 months

- B. The range for attempt, solicitation, and conspiracy is 75% of the range for the completed crime (RCW 9.94A.410).
 C. If the court orders a deadly weapon enhancement, use the applicable enhancement sheets on pages III-18 or III-19 to calculate the enhanced sentence.
 D. One year of community placement must be served following release from state prison (RCW 9.94A.120).

GENERAL DEADLY WEAPON ENHANCEMENT - FORM A

Firearm or Other Deadly Weapon Enhancements^{*1}

For offenses committed after July 23, 1995

Use of this form: Only for offenses committed after July 23, 1995 that have a firearm or other deadly weapon finding.

CLASS A FELONY DEADLY WEAPON ENHANCEMENTS: — i.e., kidnapping 1^o & burglary 1^o

First Deadly Weapon/Firearm Offense**:	
Firearm	5 years
Other Deadly Weapon	2 years

Subsequent*** Deadly Weapon Offense:	
Firearm	10 years
Other Deadly Weapon	4 years

CLASS B FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense**:	
Firearm	3 years
Other Deadly Weapon	1 year

Subsequent*** Deadly Weapon Offense:	
Firearm	6 years
Other Deadly Weapon	2 years

CLASS C FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense**:	
Firearm	18 months
Other Deadly Weapon	6 months

Subsequent*** Deadly Weapon Offense:	
Firearm	3 years
Other Deadly Weapon	1 year

* Excluded offenses: Possession of a Machine Gun, Possessing a Stolen Firearm, Drive-by Shooting, Theft of a Firearm, Unlawful Possession of a Firearm 1 and 2, Use of a Machine Gun in a felony, or any offense committed on or before July 23, 1995 with a deadly weapon finding.

** This enhancement is limited to offenses committed after July 23, 1995.

*** To be sentenced as a subsequent deadly weapon finding, the offense in history with a deadly weapon finding must also have been committed after July 23, 1995.

STANDARD RANGE CALCULATION

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	BASE STANDARD SENTENCE RANGE	
Burglary 1 st	VII	5	41	54
			LOW	HIGH
DEADLY WEAPON ENHANCEMENT			60	60
NOTE: The "base standard sentence range" is the appropriate standard sentence without the deadly weapon enhancement.			STANDARD RANGE	
			101	104
			LOW	HIGH

¹For anticipatory offenses with a deadly weapon finding, add the enhancement after reducing the standard sentence range by 25%.

Kidnapping 1^o

GENERAL DEADLY WEAPON ENHANCEMENT - FORM A

Firearm or Other Deadly Weapon Enhancements*¹

For offenses committed after July 23, 1995

Use of this form: Only for offenses committed after July 23, 1995 that have a firearm or other deadly weapon finding.

CLASS A FELONY DEADLY WEAPON ENHANCEMENTS: — *i.e., kidnapping 1^o & burglary 1^o*

First Deadly Weapon/Firearm Offense**:
Firearm 5 years
Other Deadly Weapon 2 years

Subsequent*** Deadly Weapon Offense:
Firearm 10 years
Other Deadly Weapon 4 years

CLASS B FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense**:
Firearm 3 years
Other Deadly Weapon 1 year

Subsequent*** Deadly Weapon Offense:
Firearm 6 years
Other Deadly Weapon 2 years

CLASS C FELONY DEADLY WEAPON ENHANCEMENTS:

First Deadly Weapon/Firearm Offense**:
Firearm 18 months
Other Deadly Weapon 6 months

Subsequent*** Deadly Weapon Offense:
Firearm 3 years
Other Deadly Weapon 1 year

* Excluded offenses: Possession of a Machine Gun, Possessing a Stolen Firearm, Drive-by Shooting, Theft of a Firearm, Unlawful Possession of a Firearm 1 and 2, Use of a Machine Gun in a felony, or any offense committed on or before July 23, 1995 with a deadly weapon finding.

** This enhancement is limited to offenses committed after July 23, 1995.

*** To be sentenced as a subsequent deadly weapon finding, the offense in history with a deadly weapon finding must also have been committed after July 23, 1995.

STANDARD RANGE CALCULATION

CURRENT OFFENSE BEING SCORED	SERIOUSNESS LEVEL	OFFENDER SCORE	BASE STANDARD SENTENCE RANGE	
<i>Kidnapping 1st</i>	<i>X</i>	<i>5</i>	<i>77</i> LOW	TO <i>102</i> HIGH
DEADLY WEAPON ENHANCEMENT			<i>60</i>	<i>60</i>
NOTE: The "base standard sentence range" is the appropriate standard sentence without the deadly weapon enhancement.			STANDARD RANGE	
			<i>133</i> LOW	TO <i>162</i> HIGH

¹For anticipatory offenses with a deadly weapon finding, add the enhancement after reducing the standard sentence range by 25%.